

The Indonesian Quarterly

- ☐ Garuda and Eagle:
Do Birds of A (Democratic) Feather Fly Together?
- ☐ Asean-China Relations And Taiwan Issue:
An Indonesian Perspective
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Its Implication, US Stance and the Policy of Indonesia
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in Early 2006
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sion of Truth and Friendship
- ☐ The Southeast Asia Airlines Industry:
Recent Development, Competition and Policy Issues



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ABSTRACTS

SECURITIZING INFECTIOUS DISEASES IN ASIA

By Mely Caballero-Anthony

A question that needs to be asked is: How does adding a security label to infectious diseases help better address the threats they carry? 'Securitizing' infectious diseases allows for better awareness and preparedness in addressing the kinds of threats brought on by infectious diseases, and makes states conscious of the other insidious impact of these diseases on the well-being of states and societies. The article argues that Asia needs actors who could take the lead in encouraging communication between international agencies, governments and the wider population to alert them to the insidious threats of infectious diseases.

THE PROSPECTS FOR THE INDONESIAN-TIMORESE COMMISSION OF TRUTH AND FRIENDSHIP

By Michael Roston

The Timorese and Indonesian leaderships were both troubled by the damage that the justice and accountability question could do to bilateral relations. If the Timorese were endlessly seeking prosecution of individuals within Indonesia, Indonesian leaders would feel that their smaller neighbor was constantly challenging the sovereignty of their nation. At the same time, the Timorese felt that they could accomplish little beyond the symbolic, as the Indonesians were unlikely to cooperate with their demands for justice and accountability in a way that would ever truly satisfy the Timorese people, or the international community. The dilemma posed by this problem finally led Indonesian and Timorese actors to come to an agreement in December 2004 to establish a Commission of Truth and Friendship (CTF). The article argues that whether or not Indonesia and Timor-Leste remain committed to CTF and avoid any pitfalls it creates does not appear likely to smoothen the relationship between the two states.

THE DEVELOPMENT OF SOUTHEAST ASIA AIRLINES INDUSTRY

by Yose Rizal and Titik Anas

Deregulation of the airline industry in Southeast Asia resulted in accelerated growth of the industry. The emergence of low cost carriers, allowed by deregulation and liberalization in the industry, pushed forward the acceleration. The emergence of private-owned carriers, in general and the low cost carriers in particular, has pushed the network carriers to adjust extensively to survive and remain profitable. Many of the network carriers have had to restructure, including opening up low-cost subsidiary carriers to compete with the new entrants. This article attempts to assess the recent development of airline industry in Southeast Asia, particularly on the presence of the new business model and its impact to the industry.

Garuda and Eagle: Do Birds of A (Democratic) Feather Fly Together?*

Donald K. Emmerson

IS the democratization of Indonesia affecting its relations with the US? Yes, but not always in anticipated ways. Indonesian-American relations in Soeharto's time were not always smooth. But the volatility came mainly (not wholly) in the form of NGO and Congressional criticism in the US in response to human rights violations in Indonesia. In Washington DC the executive branch was not always supportive of the Indonesian government, but many of the occasions when, for example, the State Department criticized events or conditions in Indonesia were prompted by American legislative pressure. Without such pressure, including pressure by NGOs, would the Dili massacre have prompted the US to suspend inter-military (mil-mil) relations with Indonesia? Probably not.

An idealized image of necessarily friendly democracies would extend the negatively phrased "democratic peace"

thesis, that democracies don't fight each other, to the positively wishful thought that by virtue of having (relatively) accountable governments, democracies are bound to get along. But such a "democratic amity" thesis is untenable. It was easier for DC to deal with Jakarta when power was concentrated in the hands of a man who, notwithstanding his Javanist style or, at any rate, proverbs, upheld a version of the anti-communist assumptions that drove much of US foreign policy during the Cold War while lifting his country's macro-economic indicators and welcoming FDI.

Now that both countries are democratic—a rough likeness that hides many differences—one could argue that Indonesian-US interactions, far from being smoother, as "democratic amity" would have it, should be more turbulent. For now that power no longer clearly resides in one place in the archipelago, Indonesian as

*This paper was presented to a workshop, "America in Question: Indonesian Democracy and the Challenge of Counter-terrorism in Southeast Asia," organized by the University

of British Columbia's Liu Institute for Global Issues and the Centre for Strategic and International Studies (CSIS), Jakarta, Indonesia, 27-29 January 2006

well as American pluralism can contribute to instability in the relationship.

Domestic political conflicts do not need to have a centrifugal effect on foreign policy. The character of the two countries' respective presidents, including what they (do not) say and (do not) do, still matters greatly. America may be a democracy, but George W. Bush is still in charge of the "*unitary* executive," as he and his power-concentrating vice-president would put it (minus the italics).

The unilateralist, interventionist temptation in which the Bush administration has indulged, most notably in Iraq, has not been popular in Indonesia. To the extent that Indonesia has democratized, that unpopularity, especially in politically active Muslim circles, cannot be ignored by the Istana in Jakarta. Nostalgia for Soeharto inside Indonesia is often referred to. But that sentiment has perhaps not been entirely limited to (some) Indonesians. During the revolving-door presidencies that marked the early (1998-2004) phase of *reformasi*, it would have been surprising if a few of the older "Indonesia hands" inside the Beltway had not privately recalled the merits of dealing with the same head of government over a longer period of time.

Comparably one may ask to what extent Susilo Bambang Yudhoyono runs a unitary executive these days in Indonesia? And to the extent that democracy has pluralized not only that executive but also the now semi-bicameral legislature and the regional governments as well, through *desentralisasi* including the direct election

of governors, regents, and mayors, just how much has the potential for volatility in US-Indonesian relations been enlarged?

In this context, among many aware Americans, SBY is the not-GWB (George W. Bush). It is almost as easy for an American audience to be impressed with SBY as it is for an Indonesian one to be annoyed by GWB. The image of vigor and competence (and, yes, democratic preference) that SBY projects to most (not all, but most) Americans who are cognizant of him and his country, including officials in DC, shows how the character of a leader can matter in a pluralized setting. Indeed, one could argue, it is precisely the potentially disruptive impact of democratization on a country's foreign policy that makes the rise of a "good" and "strong" leader in that country all the more valuable to its foreign partners. In this context it is perhaps telling that one is far more likely to hear complaints about SBY's indecisiveness in Jakarta than in DC.

Part of this inter-democratic volatility stems from contingency—unforeseen watershed events that have little if anything to do with democracy. Four that have greatly impacted Indonesian-American relations are, of course:

- (a) the attacks in the US on 11 September 2001;
- (b) the sequence of annual terrorist bombings in Bali and Jakarta in 2002-2005;
- (c) the US invasion of Iraq in March 2003; and
- (d) the 26/12/2004 Indian-ocean tsunami that has apparently taken some 170,000 Indonesian lives.

The first of these events—9/11—elicited widespread Indonesian sympathy that eventually turned to antipathy as US foreign policy became more and more monovalently and unilaterally focused on the “global war on terror” to the exclusion of much if not all else.¹ Facilitating this decline in support was the valorization of political Islam in democratizing Indonesia—political Islam not as a modernist elite to be appended to the New Order in the form of semi-official support for ICMI, but as a widespread, religiously sensitized constituency worth courting for its votes and not alienating for fear of being portrayed in a no-longer-reticent media as opposed to Islam itself. In this respect, political pluralism in Indonesia far from sustaining sympathy for the US government—democratic amity—sped the distancing of Indonesian opinion from its American counterpart.

Interestingly in the present setting of rising (but still rather limited) American anger with the Bush administration on

civil liberties grounds—Abu Ghraib, Guantanamo, so-called “renditions,” and domestic electronic surveillance without a warrant—the gap between Indonesian and American public opinion, as regards counter-terrorism in particular, may have begun to narrow. Note, however, that a second major attack by Al Qaeda on American soil could effectively silence the case for civil liberties. Would such an event elicit renewed sympathy in Indonesia sufficient to override local perceptions of arrogant American interventionism? Or would Indonesians, at least privately and partly, justify the attack as a bully’s comeuppance? Indonesians would be divided, but toward which view would their net opinion tilt? These questions have been made less academic by the recent statement, apparently by Osama bin Laden, that preparations are underway for just such an attack.²

The sequence of terrorist bombings inside Indonesia in 2002-2005 would appear to have had an increasingly negative effect on Indonesian sympathy for militant Islamism. I would not speculate on whether, as some observers have privately argued, this is because of the loss of Indonesian as opposed to foreign lives. At a time when the Majelis Ulama Indonesia (MUI) has taken stands against various aspects of democracy, one also senses increasing impatience among Muslim leaders, arguably including the leadership of MUI itself, with Islamist terrorism inside Indonesia.³ Clearly such

¹“For a lot of Americans,” Vice-President Dick Cheney said recently, “9/11 has sort of receded into the past[,] ... and I think there are a lot of people out there that don’t think about it every day. ... That’s not really an option the president and I have. We think about it every day. We’re briefed about it every day.” As quote in “Managing Dangerous Times,” *US News & World Report*, 23 January 2006, 4. “It” in the last two sentences quoted presumably refers to the threat of terrorism generally and not to “9/11” as a discrete historical event, notwithstanding the semantic expansion that iconic date has undergone in Bush administration discourse.

²“The World This Week,” *The Economist*, 21 January 2006, 6.

a combination is not predicted by the notion that approval of democracy and disapproval of terrorism ought to imply one another.

As for the US invasion of Iraq, was Indonesian disapprobation based on the idea that the US was not acting like the democracy that it claimed to be? Or was that disapproval rather an objection to the obvious violation of sovereignty that had occurred, combined with a relative insensitivity on the part of Indonesians (compared with Americans) to the lack of democracy in Iraq and the attendant violations of Iraqi human rights by Saddam Hussein? Or was the sticking point the occupation of a *Muslim* land—Al Qaeda's core complaint? Or all three, and if so, in what proportions? It seems that the second and third considerations may have mattered more than the first.

Finally, we know that *humanitarian* American intervention in a Muslim land—Aceh—to help alleviate post-tsunami suffering, intervention of course with Jakarta's permission (or at any rate forbearance), did lower the Pew poll numbers on Indonesian attitudes from highly to more modestly negative regarding the United States. Again, however, how much was democracy involved in this partial turnaround of opinion? What mattered was the US effort's scale, speed, and efficacy—the ship-to-shore flights from the Abraham Lincoln—and these features could have characterized assistance from

any technologically equipped country, democratic or authoritarian. As for allowing the Americans in, Soeharto could have done that too. Indeed he would have had less to worry about in making that decision, given his relative lack of accountability to Indonesians, including nationalists who might have cringed at the thought of a foreign military presence on Indonesian ground, however well motivated and urgently needed.

As for American perceptions of Indonesia in relation to Indonesian democracy, the standard introduction of Indonesia to American audiences, viewers, or readers by US commentators, including officials, now includes the tag line that Indonesia is "the third largest democracy in the world." Such references improve somewhat the default image of Indonesia in relevant American eyes, and that does yield a somewhat increased benefit of the doubt regarding what goes on in Indonesia.

The implication is that Indonesian democracy affects US policy at the margin. Here, paraphrased, is part of a recent interview with a knowledgeable observer of US policy-making on Indonesia:

Democracy in Indonesia has mattered here in Washington *on balance*. Take the resumption of mil-mil relations last year. Conservative Republicans and their allies in the Defense Department were already impatient to resume; they thought co-operation between the two militaries was a good thing regardless of whether Indonesia was democratic or not. Counter-terrorism was the key for them. But liberal Democrats and their NGO allies thought the opposite: inter-military cooperation was a bad thing. The democratization of

³"Islamist terrorism" is of course not a phrase that MUI and other Islamist organizations would use.

Indonesia allowed elements in the latter group to shift toward favoring resumption. And that is why resumption did, in the end, occur.⁴

Another knowledgeable American source put it this way: "Democracy [in Indonesia] makes it easier [for us] to swallow some of the things that are happening over there—things we don't like, such as human rights violations."⁵

Are American policymakers sensitive to Indonesian public opinion now that, post-New Order, it can be so much more freely expressed? Doubtless they were pleased at the uptick in American popularity following the tsunami. But they do not really take into account Indonesian public opinion—as opposed to the views and actions of Indonesian opinion-makers, especially government leaders. Beyond the ups and downs of US popularity, known through the poll results from Pew among other survey-research outfits, most of the movers and shakers in DC are not aware enough of the details of Indonesian conditions to know what Indonesian opinions are.

American policymakers do know that even-driven attitudes are highly mutable. Foreign public opinion, in the words of still another informed US source, "can quickly turn against us. ... There is [here in DC] a sober understanding that public opinion is fickle and depends on events."⁶

American attitudes toward Indonesia also depend on events. Indonesia-concerned policymakers in DC read the morning paper, watch Fox or CNN, and when Indonesia figures in the news, they expect the phone to ring and begin to formulate a response. The result is a reactive, patchwork ad hocery in which proactively long-range thoughts, let alone plans, are scarce. Indonesia today, Bolivia tomorrow, Iraq all the time.

All the more striking in such an intermittent environment for Indonesia policy is the speech delivered by Deputy Assistant Secretary State for East Asian and Pacific Affairs Eric John to an audience convened by the US-Indonesia Society in DC on 20 December 2005. The talk was entitled "The U.S. and Indonesia: Toward a Strategic Partnership." In it John referred to "our developing strategic partnership with Indonesia," as if it were already underway. "*A strategic partnership is in both our interests*," he argued in italics in his text.⁷

But what does a "strategic partnership" mean? It could be understood, in its widest sense, as an affirmation of across-the-board agreement—a full meshing of interests. John cites the democratization of Indonesia as an important trend facilitating the partnership. Yet a partnership is one thing, an alliance quite another.

⁶Source C, interviewed by phone, 17-1-2006.

⁴Source A, interviewed by phone, 17-1-2006.

⁵Source B, interviewed by phone, 18-1-2006.

⁷Eric G. John, "The U.S. and Indonesia: Toward a Strategic Partnership," a talk sponsored by the US-Indonesia Society, Washington, DC, 20 December 2005, pp. 2 (first phrase) and 4 (second phrase).

"We are moving to a new stage with Indonesia," wrote John, again in italics, *"concentrating not on what we can't do together, but on what we can."*⁸ The language is revealing in its acceptance of limits—the limits presumably that distinguish a partnership from something more thoroughly consensual.

Is the balance between, in John's terms, what can and what can't be done together shifting in favor of the former? It may well be. But how much of such a warming trend is attributable to Indonesian democracy as compared with other factors—including, for instance, an American need to have more friends in the Muslim world and thus to belie the assertion that the US is waging war on Islam.

John's idea on strategic partnership received little coverage in the US, perhaps in part because it was launched only five days before Christmas, when much of DC and the rest of the country was on, or getting ready to go on, vacation. Commenting on John's idea, an American source said, "I don't know what strategic partnership means. ... This appears to be a reaction to Chinese smile diplomacy."⁹ Another American concurred that John's initiative might well be, to a degree, an effort to play catch-up diplomacy in the light of Chinese success at wooing Southeast Asia. Meanwhile, an Indonesian source said he wasn't sure what a "strategic partnership" was. It all depended on how the Americans wanted

to fill that term with content. This source implied that a "strategic partnership" was not all that special. China had such named relations with many countries.¹⁰

Such skepticism does not aim to take John's initiative as meaningless. Not at all. Democracy and a shared experience of terrorism, as he pointed out, both constitute (non-military!) bases on which closer cooperation can and, to a degree, already has occurred. If that implies a strategic partnership, so be it. That said, however, to the extent that the US-Indonesian relations are, if not hostage to events, certainly affected by them, one can wonder not only about how close such a partnership can be. (Remember Indonesia's classically "free and independent" foreign policy?) One can also question whether the basis for a robustly "strategic" relationship really exists. According to a skeptical American source, "there is no strategic thinking here [in DC] on Indonesia."¹¹

It should be noted that there is an ongoing impact of another event in Indonesian-American relations. In 2002 two Americans were shot to death near Timika in Papua. Not long ago several suspects were arrested. It is encouraging that the arrests were made.¹² Belatedly, the Indonesian government, with FBI cooperation, may be moving forward toward solving the case. But what if those

¹⁰Source D, interviewed by phone in Indonesia, 18-1-2006.

¹¹Source A, phone interview, 17-1-2006.

¹²See, for example, Raphael Pura and Murray Hiebert, "Indonesian Arrests Could Bolster Ties with U.S.," *The Wall Street Journal*, 13 January 2006, A8.

⁸John, "The U.S. and Indonesia," p. 6.

⁹Source A, phone interview, 17-1-2006.

who were arrested persuasively implicate the Indonesian military in the Timika attack? Will the new rule of law in Indonesia sustain a prosecution of anyone inside the armed forces who may have been responsible for what occurred? (One may ask the same question of the investigation into who murdered the human rights activist Munir by poisoning him on a Garuda flight in 2004.)

The US-Indonesian relations are not hostage to a satisfactory resolution of the Timika affair. If they were, mil-mil relations

would not have been restored. But the ongoing repercussions of this crime illustrate the contingencies sought to highlight in these notes. Legal proceedings to judge and punish the guilty imply the rule of law, an aspect of successful democracy. What happened near Timika appears to have been an act of terrorism.

The US is a democracy. So is Indonesia. Both oppose terrorism. Yet this does not imply the smooth affinity that "democratic amity" would lead us to expect.

Asean-China Relations And Taiwan Issue: An Indonesian Perspective*

Rizal Sukma

INTRODUCTION

THE spectacular result of more than two decades of economic development in the People's Republic of China (PRC) has been an important factor that shapes the ongoing transformation of international relations in East Asia. As its economic power grows, China has become one of the most dynamic forces that provide many new

economic opportunities for its neighbors, especially in Southeast Asia. As many countries of the Association of Southeast Asian Nations (ASEAN)¹ have benefited through closer economic cooperation with China, the political and security relationships between those countries and China have also improved significantly. For China itself, it has consistently maintained that the creation of a peaceful external environment is a top priority in

*Paper presented at the Seminar on "Sino-Southeast Asian Relations and Taiwan Issue" Shanghai Institute for International Studies (SIIS), Shanghai, 12-13 December 2005.

¹In this paper, ASEAN and Southeast Asian nations are used interchangeably.

the country's foreign policy. In that context, China has indeed played, and is expected to continue to play, an important role in maintaining the stability and security in the region and beyond.

Despite positive developments in ASEAN-China relations, the future directions of China remain an enigma for ASEAN. Rapid economic development in China provides the opportunity for the country to acquire new status and exercise greater influence within the existing regional and international political structure. Along with its economic development, China's military capability has also improved significantly compared to those of ASEAN countries. In this regards, despite the improvement in relations, history remains a factor that could affect ASEAN countries' perceptions of China's military build-up. Indeed, the future role of China has been frequently discussed within the region. There is still a degree of uncertainty among ASEAN countries on how China is going to use its newly acquired wealth and influence in achieving its national interests and objectives in the region. In this context, Beijing's policy on Taiwan constitutes an important factor that would shape ASEAN's perceptions of China in the future.

This paper examines ASEAN-China relations and the Taiwan issue. First, it discusses the importance of Taiwan issue for China's domestic and foreign policy. Second, it analyses ASEAN's policy on Taiwan and the importance of the issue in ASEAN-China relations. Third, it provides some policy suggestions on how ASEAN, China and Taiwan should

conduct the relationship among them in a way that would ensure stability and prosperity in the region.

TAIWAN IN CHINA'S DOMESTIC AND FOREIGN POLICY: ASEAN'S VIEW

With the exception of Thailand, Southeast Asian countries are all post-colonial states. Soon after their independence, the tasks of nation-building and the creation of national identity were given the highest priority in the national agenda of respective governments in these countries. The immediate challenge facing these newly-independence country was, and still is, the preservation and consolidation of national integration, which includes both territorial and social integration. Even Thailand, which was not colonized by any colonial power has long been faced with this challenge. The experience of these countries in maintaining and consolidating national integrity, often threatened by both internal and external threats, has created a strong awareness about the inseparable linkage between sovereignty and territorial integrity. In other words, territorial integrity has become, and will continue to be, one of the most importance issues for national security in these countries.

Within that context, the governments of Southeast Asian countries are fully aware of the importance of Taiwan for Beijing. Since the victory of China's Communist Party (CCP) to overthrow the Nationalist government of Kuomintang in Beijing in 1949, which marked the birth of the People's Republic of China, the new government in Beijing has seen Taiwan as a breakaway or renegade province that

needs to be brought back to the motherland. Since then, Beijing has made the reunification as a national agenda of paramount importance. In this regard, ASEAN clearly supports Beijing's view on Taiwan. The recognition by ASEAN countries of the government in Beijing as the legitimate government of China reinforces this reality. None of ASEAN countries maintains diplomatic relations with Taipei. For ASEAN, there is only one China and Taiwan is part of China.

Indeed, ASEAN sees the important of Taiwan for China in four contexts. First, as mentioned earlier, ASEAN fully recognises that the reunification of Taiwan into the mainland constitutes the most important national agenda for China. Without reunification, the consolidation of China's territorial integrity cannot be said complete. Indeed, after the return of Hongkong and Macao, Taiwan constitutes the only area that has not yet fell under the *de facto* sovereignty of mainland China. However, the government in Beijing is also aware that due to the current circumstances, the most important task facing the country at the moment is to prevent Taiwan from declaring independence. In this regard, Beijing government is obliged to prevent either the creation of "One China, One Taiwan" or "Two Chinas." Indeed, in order to preserve peace and stability, Beijing has consistently opted for the policy of maintaining *status quo* while exploring various possibilities for a peaceful reunification.

Second, like ASEAN, Beijing also recognizes the importance of Taiwan as an economic entity. Due to rapid economic

development during the 1970s and 1980s, Taiwan quickly emerged as important economic actor in Asia-Pacific. The economic relations between the two sides of the strait, both trade and investment, have expanded rapidly since 1987. In early 1999, for example, it was estimated that investment by Taiwan companies on the mainland had grown to more than US\$30 billion.² For China, the significance of Taiwan as a source of foreign investment cannot be overlooked. It clearly contributes to the mainland economic reform, accelerates the economic growth, and creates millions of jobs. ASEAN countries are also convinced that China also recognizes the economic importance of the island to other economies in the Asia-Pacific region and beyond.

Third, from the perspective of China's domestic politics, ASEAN clearly understands that no government in Beijing can afford to loose Taiwan. The credibility and legitimacy of the government in the eyes of the population will to a large extent depend on its ability of prevent any change to the *status quo*. For the younger generations of Chinese leaders, any compromise on this politically sensitive issue would raise a serious question regarding their nationalist credential, which has increasingly become an important basis of political legitimacy for China's government since the passing of Mao Zedong and Deng Xiaoping era. Moreover, it has been

²Steven M. Goldstein, "Terms of Engagement: Taiwan's Mainland Policy," in Alastair Iain Johnston and Robert S. Ross, eds., *Engaging China: The Management of an Emerging Power* (London: Routledge, 1999), 64.

acknowledged that "if China were to allow self-determination for one of its major territories on the grounds that its people see themselves as culturally distinct, it would set a precedent for other territories...to break away."³

Fourth, ASEAN is also aware that for China the question of Taiwan is closely linked to the country's foreign policy and national security, especially in relations to the United States (US) factor and in China's relations with other countries. The relationship between the US and Taiwan, especially in military and defence ties, constitutes a factor that creates an uncertainty in Beijing-Washington relations. Beijing is of the view that the continuing American military support to Taiwan can undermine the prospect for a peaceful resolution to the cross-straits problem. Beijing cannot overlook the possibility of a miscalculation on the part of Taipei due to this support, and therefore clearly maintains that it cannot rule out the possibility of the use of force to prevent Taiwan from going independence. In that context, the Taiwan issue constitutes a top priority in China's national security concerns, where the US is seen as an external force that makes reunification difficult.⁴ Therefore, the Taiwan question clearly serves as a sensitive political factor in Sino-American relations. The Taiwan issue is also a sensitive issue in China's rela-

tions with other countries, including with its neighbours in the south.

ASEAN'S POLICY ON TAIWAN ISSUE AND SINO-SOUTHEAST ASIAN RELATIONS

The position and policy of Southeast Asian countries on Taiwan issue has always been based on the "One China" principle. All Southeast Asian countries have made this clear when they established diplomatic relations with China. In fact, diplomatic ties with Beijing would not have been possible without ASEAN states adhering to this principle. ASEAN countries also realize that any change to that position would not be in anyone interests. For ASEAN, like the rest of the world, a stable China is an important partner for stability and prosperity in the region. The growing relationship between both sides since early 1980s has clearly demonstrated the strategic importance of China to ASEAN countries, either in economic, political and security terms. Therefore, it is unlikely that ASEAN would endanger its own interests and risks instability in the region by deviating from the one-China policy.

However, ASEAN governments also recognise the importance of Taiwan in economic terms for their countries, and therefore, seek to develop economic cooperation with the island. Even though the trend shows a decline in Taiwan's investment in the region, Taiwan is still an important source of investment and an important trading partner for ASEAN countries. In 2002, for example, Taiwan's total investments in the region had reached

³Andrew J. Nathan and Roberts S. Ross, *The Great Wall and the Empty Fortress: China's Search for Security* (New York: W.W. Norton & Company, 1997), 206.

⁴*Ibid*, p. 205.

US\$ 42.169 billion, the trade volume between ASEAN and Taiwan in the same year totaled US\$ 32.47 billion. Taiwan is also a major destination for foreign workers from ASEAN, thus providing jobs to many Southeast Asians.⁵ In other words, economic cooperation with Taiwan is in the national interests of ASEAN member states. As China has benefited from economic ties with Taiwan, so have ASEAN countries.

However, the problem of Taiwan in ASEAN-China relations lies precisely in this area. The nature of relationship between ASEAN and Taiwan, even though purely economic, often serves as a "pebble in the shoes" or a small hurdle in ASEAN-China relations. China is worried that a political dimension would be injected into the relationship between ASEAN countries and Taiwan. China is highly sensitive to any political overture by Taiwan towards ASEAN states. The visit by political leaders from Taiwan to ASEAN countries, for example, often becomes a source of problem in ASEAN-China relations. China is worried that such visits—often called holiday diplomacy—would bring about political implications that could increase Taiwan's political leverage, alter the *status quo*, and in turn encourage the separatist tendency in the island.

With Indonesia, for example, this problem became the first sensitive issue since the restoration of diplomatic relations between the two countries in August 1990.

In 1994, when Taiwan's Lee Teng-hui visited the island of Bali and met with President Suharto in an unofficial setting, China issued a strong warning to Indonesia, which then provoked a sense of anger in Jakarta. Some within Jakarta's political circles, which saw the warning as an attempt by China to dictate Indonesia, even suggested that Indonesia to again sever its newly-restored diplomatic ties with China. When Lee Teng-hui visited Manila, China also issued a strong warning to the Philippines. The most recent one was with Singapore when Lee Hsien Loong, who was still Singapore's Deputy Prime Minister at the time, visited Taipei in July 2004 and met with Taiwan's leaders.

However, China's sensitivity and suspicion is not without reasons. Since the adoption of *nanjin zhengce* (southward policy) by Taiwan in December 1993, the island has tried to further its interests by improving economic relations with ASEAN countries. That policy, even though economic in nature, was expected by Taipei to have also political and strategic implications on its relations with ASEAN countries.⁶ Recently, Beijing's concerns have been strengthened by Taipei's plan to hold a referendum on writing a new constitution in 2006 and enact it in 2008 as parts of Taiwan's attempts to make itself a "normal and complete nation." Beijing sees this plan as a factor that could bring the cross-Straits relations to the

⁵Taiwan Yearbook 2004, at <http://ecommerce.taipeitimes.com>

⁶For a discussion on this policy, see Gerald Chan, "Sudpolitik: The Political Economy of Taiwan's Trade with Southeast Asia," *The Pacific Review* 9, no. 1 (1996): 96-113.

brink of danger. It is also for that reason that China cannot afford to renounce the use of force in its attempt to ensure the eventual reunification of Taiwan with the mainland.

While recognising China's concerns, ASEAN also expects Beijing to be assured that, on the one hand, ASEAN fully understands that the Taiwan issue is an internal problem for China that needs to be resolved by both sides of the Straits. It is also unlikely that ASEAN countries would depart from One China Policy. On the other hand, the PRC should also acknowledge and recognise ASEAN's economic interests in its relations with Taiwan. Due to the paramount importance accorded by ASEAN countries to promote economic development in their respective countries, the economic importance of Taiwan to ASEAN is self-evident. ASEAN economies need foreign investment in order to grow, and Taiwan constitutes an important source for such investment. Therefore, for ASEAN countries, developing and expanding economic relations with Taiwan would serve their national interests.

For its part, ASEAN is clearly aware of Taiwan's relentless efforts to gain greater recognition on its political standing, if not status, in the eyes of Southeast Asian states. It has been noted, for example, that the "Go South" policy constitutes "Taiwan's attempt to wean ASEAN away from China."⁷ This policy, however,

"appears to be in tatters today, given the 'advancing ASEAN-China ties and co-operation' within the last eight years."⁸ In this regards, despite the political implications that Taiwan expects to bring about through its policy towards the regional countries, ASEAN would continue to limit its relationship with the island strictly in the economic realm. For ASEAN, as mentioned earlier, Taiwan is inseparable part of China which serves as an economic rather than political entity.

CONCLUDING REMARKS

Based on the above discussion, there are three fundamentals that ASEAN, China, and Taiwan should always keep in mind in conducting their relationship.

First, ASEAN does not want to see the cross-straits relations sliding into a dangerous trajectory. For this, ASEAN will continue to support a peaceful solution to the problem and does not expect any change in the status quo that could heighten the tension in cross-straits relations. ASEAN and ASEAN+3 frameworks could certainly provide help in ensuring a peaceful resolution to the conflict. Therefore, it is importance for China to "regularly provide information on and, to a certain extent, discuss developments across the Straits and her policies towards them"⁹ with its ASEAN counterparts. Such exchange of information could certainly reduce any misunderstanding on the part

⁷Eric Teo, "ASEAN-China Relations: Implications on Taiwan," Radio Singapore International, at www.rsi.sg

⁸*Ibid.*

⁹Jusuf Wanandi, "East Asia and Bumpy Sino-Taiwanese Relations," The Jakarta Post, 1 July 2004.

of ASEAN countries about China's position on the Taiwan issue.

Second, China should exercise a greater trust and understanding in ASEAN's Taiwan policy. ASEAN will continue to adhere to One China Policy and is unlikely to develop any form of official political ties with the island. It is in the interests of all ASEAN countries to stick to this principle. Therefore, ASEAN expects Beijing to allow some space and greater flexibility in looking at ASEAN's economic cooperation, both trade and investment, with Taipei. As ASEAN can also play a role in conveying its position and views to the Taiwanese side, there is also a need for Beijing to exercise a greater flexibility in allowing informal exchanges and dialogues at the second track level between ASEAN and Taiwanese scholars, including within the Council for Security Cooperation in Asia-Pacific (CSCAP).

Third, Taiwan should not frame and define its relations with ASEAN countries

as an extension of cross-straits problem. ASEAN states have made it clear that they do not want to be entangled in the cross-straits tension, let alone to be seen as interfering in China's internal affairs. They have also repeatedly stated that both sides need to refrain themselves from creating a situation that might escalate the tension. ASEAN also expects Taiwan to continue to uphold the need for a peaceful resolution to the problem. For that purpose, ASEAN expects Taiwan to recognize that its relationship with ASEAN states cannot go beyond economic ties.

If these three fundamentals in the relationship are observed and upheld by each party, there would be no imminent danger that could undermine the prospect for a more stable and peaceful environment in East Asia. Such an environment, which serves as a basic prerequisite for prosperity, is certainly in the interests of all.

Iran's Nuclear Case: Its Implication, US Stance and The Policy of Indonesia

Zainuddin Djafar

INTRODUCTION

IN the beginning of 2006, the nuclear technology development (especially the uranium enrichment) by the Iranian government has obtained major reactions from the US, the UK, Germany, and France. It even made the US, worried, especially after the promotion of 'the hard liner politician' Mahmoud Ahmedinedjad to the Iranian President (end-2005). The US and her main European allies are very eager to stop the Iranian's attempt to develop the nuclear technology for its peace aims. Nevertheless, the US and her allies are still suspicious and quite prejudicial that Iran would at last change its nuclear technology development into the making of a nuclear bomb. The tension between Iran and the Western countries intensified when the Iranian government decided to reactivate the research over the nuclear development in Natanz (Iran), in early January 2006. This nuclear station had been closed and sealed by the International Atomic Energy Agency (IAEA) for almost two years.

The US has strongly accused the Iranian government of violating the resolution signed by IAEA. The accusation was aimed to support the US in forcing

Russia, China, the UK, and France, to bring along the Iranian nuclear case to the UN Security Council. The US and her allies hoped that the UN Security Council would further consider and decide to end the Iranian plan of its uranium enrichment as for the future alternative energy. In this case, the US and her allies have applied a double standard, since the US and India (eventhough she is not a member of NPT) have agreed their nuclear pact (3 March 2006). Indeed, it was quite controversial. The question is: Why could the Indian nuclear development be implemented and agreed by the US? and, why did it not apply to the Iranian?

THE US PRESSURE

The US worries over the Iranian nuclear could be considered 'ideological' resulting from a number of factors that have been rooted for a long time. Iranian ideology has long been taken as a serious threat for the US and her main ally in the Middle East, namely Israel. Until early 2006 Iran has owned nine quite strategic nuclear facilities, such as: (1)Saghand; (2)Ardkan; (3) Gehine; (4) Isfahan; (5) Natanz; (6) Teheran; (7) Bushehr; (8) Arak; and, (9) Anarak. Iran nuclear technology sites have been developed progressively.¹

It started from producing uranium or mine, creating nuclear enrichment, and establishing a nuclear waste site. The US and her allies have known for a long time that the Iran nuclear technology had succeeded in making a nuclear heading missile (ICBM). For example, Shahab 4 (equipped with cruising capacity of 2,896 km and load capacity of 11,000 kg in the content of nuclear material) and Shahab 3 (equipped with cruising capacity of 1,500 km and load capacity of 1,000 kg) are the main strategies of the Iranian nuclear weapon. Obviously, Shahab 4 is considered very dangerous for the security interest of the US and Israel in the Middle East. In the case of Shahab 4 launching from the Iranian region, the nuclear missile range is not just bringing disorder to the Israeli defence system, but in a minute it could also demolish Tel Aviv to the ground level.

As concluded by Ahmad Qisa'i, the US pressure to Iran actually has no connection whether the country belongs to the weak state or not.¹ Therefore, the US and her allies could not easily dictate Iran to do what they like to. As such, there were some factors that culminated in the US pressure regarding differences in ideology. Such pressure was reflected in President George Bush's statement in his Union speech delivered to US Congress on 29 January 2002 as follows:

"Our second goal is to prevent regimes that sponsor terror from threatening America or our friends and allies with weapons and mass destruction ... North

Korea is a regime arming with missiles and weapons of mass destruction, while starving its citizens. Iran aggressively pursues these weapons and exports terror ... Iraq continues to flaunt its hostility toward America and to support terror. This is a regime that has something to hide from the civilized world. States like these, and their terrorist allies, constitute an axis of evil, arming to threaten the peace of the world.²

What did President Bush mean by declaring the three countries—North Korea, Iraq, and Iran—as the axis of evil? It seems groundless. President Bush just exaggerated the issue of the axis of evil in order to fulfil his main political agenda of 'the war on terror' after the 9/11 tragedy. The agenda seemed also on the right track in supporting the political ambition of President Bush close advisers, namely the Neocons (Donald Rumsfeld and others). Actually, it is not quite right for President Bush to place North Korea, Iraq, and Iran on the axis of evil. Historically, after the World War I and II, these countries did not belong to 'the old axis' (Germany, Japan, and Italy), where 'the old axis' had been sentenced by the allies through World War II.³

Besides, the EU as the US's main allies had implemented its constructive engagement policy toward Iran in the last several years.⁴ The former even expressed its commitment to Iran only a week earlier before the President Bush speech (23

¹Ahmad Qisa'i, 'Nuclear Paradox of Iran and Indian', *Kompas Online*, 17 February 2006, Indonesia.

²Dilip Hiro, *War Without End: the Rise of Islamist Terrorism, and Global Response* (New York, USA: Routledge, 2002), 388.

³ *Ibid.*

⁴ *Ibid.*

January 2002)—promising to give US\$ 500 million aid to the Karzai government over the next five years—at the international donors conference on Afghanistan in Tokyo.⁵ Many parties were doubtful and disagreed with the criteria of the axis of evil. For example, Chris Patten (the European Commissioner for international relations), strongly criticized President Bush for his 'absolutist and simplistic' approach.⁶ The direction that President Bush had given to the battle against terrorist, and its continued vagueness, worried not just the Americans, and the European, but also the Arabian allies and the Muslim world.

Many of the Western governments have regarded an Islamic political movement as terrorist and the untouchable is savouring its stunning victory in the Palestinian elections. The Hamas triumph has brought delight to all its fellow members of the international fraternity known as the Muslim Brotherhood— from the refugee camps of Amman in Jordan, Hizbullah (an Iranian backing-up Shiah movement based in Lebanon), to their well-organized counterparts in the Islamic Diaspora in Europe. Whatever Hamas does presently, their success may be recalled as the biggest victory for political Islam since the great Iranian named Ayatollah Khomeini brought to a modern world the idea that Islam might be a formula for governance, law and revolution spreading.⁷

There were some important facts relating to the victory of Hamas in the end of January 2006. The Hamas victory has proven that the idea addressed by Imam Ayatollah Khomeini concerning governance and Islam state, is actually applicable for the Palestinian state. This also means that the Muslim Brotherhood, as the other fanatical Islamic groups of Al-Qaeda, has actually developed fast in Egypt, Palestine, and Jordan. As a result, the Muslim Brotherhood has become another threat for the US political interest in the Middle East, meaning the US has a major threat from the two fronts at once (including AL Qaeda).

With regard to Hamas' victory as the new government of Palestine, and Mahmoud Ahmedinedjad's statement on the removal of Israel from the map of the Middle East, thus, Iran has definitely become a serious threat for the US. This had made the US and her allies insistently stop the Iranian nuclear development. The US seemed also worried that the Iranian government had a dangerous connection with the rise of Islamic politics through the existence and the spreading of the Muslim Brotherhood in some countries of the Middle East.

As such, the political progress of Iran could become contra-productive with the US interest that has already controlled the Middle East for many years. According to the US foreign policy in the Middle East, the US would never compromise with any state that was difficult to be controlled.⁸

⁵ *Ibid.*

⁶ Hiro, *War Without End*, 388-389.

⁷ 'Special Report on Policial Islam', *The Economist*, 4 February 2006.

⁸ Hiro, *War Without End.*, 5-65.

The US obviously would do anything to remove 'the rouge state'. As a result, the US has kept an eye on the current development with Iran being 'the middle power'. Indeed, the Islamic state of Iran could not be underestimated, not only because of its nuclear power, but also because of its position as the second biggest oil producing country after Saudi Arabia. That is why the US would like to stop the Iranian nuclear development plan at all costs.

IRAN'S DISAPPOINTMENT

The Iranian government has been disappointed with the US stance and its political scenario in responding to her nuclear technology development. The US has already accused Iran directly of developing the nuclear bomb, although it has not been decided yet. The US has always been convinced that the Iranian government through its nuclear development plan on uranium enrichment would develop its nuclear bomb. In February 2006, the US has not just succeeded to develop a diplomacy unity with her allies in Europe (the UK, France, and Germany), but also to bring Russia into her side as 'a diplomacy unity' in halting the Iranian nuclear plan.

In early February 2006, Russia has already promised to cooperate with the Iranian government for its uranium enrichment plant at Natanz, but finally cancelled as the US pressure seemed more effective. *The Economist* called the implication of the US pressure on Iran as 'a rare diplomatic unity', that has occurred to place the countries of five permanent

veto wielding members of the UN Security Council standing together – namely America, Russia, China, Britain, and France.⁹ This diplomatic unity could be seen as the turning point by agreeing to call on the 35 nation board of the International Atomic Energy Agency (IAEA) meeting, in the emergency session, to report Iran's past illicit nuclear activities to the UN in which they delivered a long overdue message. If Iran pressed ahead with its uranium enrichment, it can expect diplomatic isolation and possibly worse actions.¹⁰

Russia's changed foreign policy and China's response that supported the US diplomacy had made the Iranian government disappointed. Actually, Iran intended to have support from both countries, namely Russia and China, as their support would certainly split 'the world power'. As a result, the Iran ambition for its uranium enrichment could be run smoothly. At world diplomacy forum (the UN and IAEA), the US, the UK, and France had caused difficulty for the Iranian nuclear position. Thus, 'a defiant Iran' would not be convinced by just words anymore. Indeed, the pressures from the US and her allies have become a major burden for Iran.

The US pressure through the IAEA could not be underestimated. This made President Mahmoud Amadinedjad visit Kuala Lumpur, Malaysia in early March 2006, and Foreign Minister Manouchehr Mottaki also came to Jakarta, a week

⁹*The Economist*, 4 February 2006.

¹⁰*Ibid.*

earlier (23 February 2006). Mainly, Mottaki emphasized that the nuclear meeting with Russia had several problems. First, the participants that were involved in the uranium enrichment were still uncertain of how many countries and companies would agree to join the project. Second, it is still uncertain of how long the project would take to be implemented? Third, it is still unclear of where the enrichment would be operated. Finally, it is still imprecise whether the Iranian government could step out of the agreement if she could do the uranium enrichment by herself.¹¹

Mottaki also carried out the moderate response in dealing with the tough pressure by the US and her allies. He affirmed that the UN Security Council could not be the US means in order to influence the other states.¹² The Iranian government also disagreed with 'the military action' as a unilateral approach. There is no state that could ignore the rights of Iranian people in order to benefit from its membership in NPT, namely using the nuclear technology for peaceful aim. Furthermore, the Iranian government has asked all of the Muslim states to help Hamas as the new government of Palestine. It is confirmed by Foreign Minister Mottaki, that Hamas has its rights to establish the Palestine government, and Muslim people hold responsibilities to help their brothers in Palestine.¹³ In the meantime, the Islamic Conference

Organisation (OKI) would coordinate the donation of its member states and aid for the Palestinian people.

The latest development of the Iranian and Russian meeting showed that there were still many issues to be agreed upon in order to achieve the entire deals.¹⁴ On the one hand, the Iranian government has also rejected the Russian request in order to freeze all uranium enrichment and she kept fighting to carry out the uranium enrichment plan.¹⁵ On the other hand, the Russian government wanted to take over entirely the uranium enrichment as to ignore 'the US accusation' that the Iranian government would have persisted in creating the nuclear weapon.¹⁶ Nevertheless, the Iranian government needed to create uranium enrichment locally and by its own.¹⁷

It is also confirmed that the Iranian government has rejected 'the IAEA report' of misusing the Iranian nuclear development as 'dangerous threat' to the UN Security Council. In effect, the Iranian government has reduced the number of IAEA inspectors, remove all scouting cameras, and turn off the IAEA seal at all of the Iranian nuclear facilities.¹⁸ The Iranian government would remain to obey and cooperate to any state as the NPT member, but she disagreed with the misusing of the NPT (Non-Proliferation Treaty) for the political instrument of the US.¹⁹ Although the US and her allies

¹¹ 'Iran asked Indonesia to Help HAMAS', Kompas Online, 24 February 2006.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Kompas Online, 28 February 2006.

¹⁵ Kompas Online, 23 February 2006.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ Kompas Online, 13 February 2006.

¹⁹ *Ibid.*

pressure remain high, President Mahmoud Ahmadinejad kept rejecting the US pressure to freeze the Iranian nuclear program.²⁰

Taking into account of the Iranian tough stance over its uranium enrichment, it was predicted by many sources that the US has planned to launch the military attacks over all of the Iranian nuclear centres and its military facilities. This was the result that the diplomatic settlement for the Iranian nuclear case was not carrying out in a maximum one by the US and her allies. It has been estimated that the US attack over Iran would not solve and stop the Iranian nuclear development. On the one hand, the Iranian government would further intensify its nuclear technology development, including its uranium enrichment. On the other hand, the US military attack over Iran would further create more violence and unpredicted situation in the Middle East.

THE POLICY OF INDONESIA

In principle Foreign Minister Hassan Wirajuda explained that Indonesia would support the peaceful aim of the Iranian nuclear development as set forth in the NPT.²¹ Indonesia would also encourage the continuation of negotiation process between Iran and Russia, and the Western countries. Indonesia would further emphasize the need for having a major space of the negotiation process on the Iranian nuclear development. This situation would

create better understanding and the negotiation would be more productive as a diplomatic solution. Apparently, by using the diplomatic forum on the Iranian case, certainly it would bring the Persian region away from the new tenseness.²²

The Indonesian government was also convinced that the pressure upon Iran by submitting the Iranian nuclear case to the UN Security Council on 6 March 2006 would be ineffective in making Iran fulfil 'the IAEA demands'.²³ The Iranian nuclear case is a sensitive one. The Iranian government apparently remains unwilling and insistently refuses to any pressures on its nuclear development. Thus, the pressure by the UN Security Council on the Iran nuclear case would be fruitless. Beyond that, the Iranian government is also in control of the world oil prices. The Iranian nuclear crisis indeed could create another serious crisis if the oil price of US\$ 70 per barrel (February 2006) increase to US\$ 100. This means that the global economic condition would also be in jeopardy.²⁴ The Iranian oil production is 4 millions barrel per day, including 2.5 million barrel to be exported abroad. Obviously, if the Iranian nuclear case is in a serious crisis, it would further reduce its oil production, disturbing the world oil distribution, and finally the world oil price would increase unpredictably.

The Indonesian government remain persistent that the Iranian nuclear case

²²*Ibid.*

²³*Kompas Online*, 6 February 2006.

²⁴*Kompas Editorial*, 'the Oil Price and the Iranian Nuclear Crisis', *Kompas Online*, 25 February 2006.

²⁰*Ibid.*

²¹*Kompas online*, 24 February 2006.

should not be pressurized and should not be related to any religion or ideological interests.²⁵ Otherwise, this would only escalate religious hatred, and encourage the Islamic fanatical solidarity into massive violence in the Middle East. Many Iranians believe that the US pressure on the Iranian nuclear development is unjustified and seriously offensive.²⁶ Unfortunately, the US never criticized and complained about the Israeli nuclear development and its ownership.²⁷ Thus, it seemed unfair if the US accused Iran of going too far in its nuclear development. In relation with the voting results of the IAEA resolution design, there were 27 countries declaring to support the resolution, 3 countries (Syria, Cuba, Venezuela) to reject and 5 countries (Aljazair, Belarussia, Indonesia, South Africa, and Libya) to remain abstained.

Indonesia's abstain decision is not a hesitant position to the Iranian nuclear development. Indeed, the Indonesian government would prefer that the Iranian nuclear case should be settled down through intense dialogue of diplomatic forum.²⁸ This also means that the Indonesian government has already considered every aspect and consequence of the Iranian nuclear case. Therefore, the Indonesian government would constantly encourage the Iranian nuclear development for peaceful mission.²⁹ Furthermore, the Indonesian government has a close relation

with the Iranian government and both are members of the NPT, thus the Indonesian government would stand with the Iranian government for the serious dialogue with the US and her allies.

CONCLUSION

A number of parties (China, Russia, Indonesia) including the government of Mahmoud Ahmadinejad, believe that the Iranian nuclear development should be better settled through diplomatic forum. However, it is necessary for Ahmadinejad to be able to convince the US and her allies that the Iranian nuclear development is indeed for peaceful objective, and it is not just rhetorical promises. Iran should also learn from the Iraqi case, where President Bush disobeyed the international community resolution in rejecting the Iraqi war (March 2003). In such case, the US is very likely to do the same to Iran.

The US worry over Iran being the ideological one has made the former deny any concession requested by Iran. This also puts the statement of the IAEA chairman, Mohamed ElBaradei in serious question (BBC, World News, 22/02/06), 'that international community would have no option, and must accept for the Iran government to implement the uranium enrichment in low scale, domestically'. However, the US and her allies have to be wise, in order to end the Iranian nuclear crisis via military attacks. This would not just make the world unsafe, but it could also boost the world oil price unpredictably. Consequently, it would create major problems on the stability of global economy.

²⁵ *Kompas Online*, 6 February 2006..

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid.*

REVIEW OF POLITICAL DEVELOPMENT

Aceh Reconstruction, Poso and Other Political Issues in Early 2006

Christine Susanna Tjhin and TA. Legowo¹

INTRODUCTION

COMPARED to the year 2005, this year begins with a less dramatic overture, as there was no natural disaster with magnitude as great as that of the Aceh Tsunami. Nevertheless, the current development in Aceh still indicates that the recovery and rehabilitation process has been neglected on a scale that is worrying. The majority of the internally displaced persons (IDPs) are still dwelling in deteriorating camps, barracks, and tents. Welfare support funds have been unevenly distributed and employment rate remains low. In other words, public services facilities and infrastructures are being developed in a disturbingly slow manner.

As the year 2005 has gone by, apparently coordination and dissemination of information remain the crux of the problems. Government agencies seem unable to work together effectively despite

the establishment of the Rehabilitation and Reconstruction Agency (*Badan Rehabilitasi dan Rekonstruksi* or BRR). The initially heralded BRR has now withered and accordingly drawn more criticisms, particularly due to the stark contrast of deliverables provided and salaries earned by the BRR executive members.

Additionally, the reconstruction issues have been overshadowed by the debates surrounding the provisions for political representatives and natural resources income allocations in the Bill on the Acehnesse Government (*Rancangan Undang-Undang Pemerintahan Aceh* or RUU-PA). This is also closely related to the recently concluded disarmament processes and the ongoing reintegration and peace-building processes concerning the ex GAM members and leaders. Even though the disarmament processes have proceeded in a relatively positive atmosphere, reintegration is somewhat dependent upon the rehabilitation and reconstruction progresses as well as the political development both at the national as well as regional level.

¹The authors would like to thank Indra J. Piliang and other colleagues in the Department of Politics and Social Change, CSIS, for their information to complete this report.

The Bill has just been delivered by the Minister of Home Affairs (MOHA) to the Parliament in February 2006. A special committee (*panitia khusus* or *pansus*) has also been established for the Bill's deliberation. The Bill is, of course, far from perfect. Protests and/or criticisms have been raised with regard to the substance of the Bill itself and the legislation processes involved throughout this time. Civil society participation in this legislation processes have been crucial and have to be maintained through an open and transparent deliberation processes in the Parliament. Opposition parties have also raised their concerns and public opinion wars have begun. The following quarter will be filled with further politization of the issues.

The imminent direct regional elections (PILKADA) will also color the debates and add further tensions as various political wings have begun their moves to participate in PILKADA. The demands for divisions of 2 additional provinces are also amongst the heated debates surrounding post-Tsunami reconstruction in Aceh.

On the other side of the archipelago, Papua, a region also marred with conflict is also embarking to have their PILKADA soon. The prolonged ambiguous status of West Irian has yet been settled by the central government. Local elements have also not succeeded in finding middle ground in settling the Papua-West Irian issue, despite the establishment of the Papuan People's Assembly (*Majelis Rakyat Papua* or MRP).

In addition to the issues mentioned above, another issue has taken place, i.e., the appointment of a new TNI leader. Air Marshal Djoko Suyanto has just been inaugurated to take the place of General Endriartono Sutarto. This is the first time in modern Indonesian history that the Air Force got the top of the command. This has dampened the much talked competitions within the TNI between forces, as well as within the army between different generals. Hopes are high for further comprehensive security sector reform with this appointment. The issue of military personnel's rights to vote has also been raised along with the appointment of the new leadership as pressures for reform proceed.

PILKADA has been taking place in various regions throughout the country. Though most of the PILKADA processes have gone through in a relatively smooth manner, there are problems in which the results of PILKADA have been challenged and political tensions have arisen in a number of regions. Amongst the key solutions to these problems is the establishment of an independent regional electoral commission (KPUD) that is under and responsible to the central electoral commission (KPU), instead of having KPUD responsible to the regional Parliament. PILKADA in some conflict areas will also rely on the goodwill of the government to improve the quality of local democracy. All in all, amendments to the existing political and electoral laws are imperative to avoid further inconsistencies and multi-interpretations due to conflicting vested interests.

Another highlighted issue regarding the executive and legislative relations is on the

rice import policy. The government's decision to import rice from Vietnam has reaped many criticisms. The Parliament initially planned to call the government for a meeting to explain the reasons behind this import policy and to challenge these policies. Though initially the call has garnered majority support during the plenary session, afterwards, after several moves from the executives, the call was canceled. The Parliament's performance can therefore be hardly appreciated if they let themselves be continuously intervened by the government.

Indonesia's current political situation was also colored by the border clashes with Timor Leste. In addition, the bombing in Poso and anti-graft movement there are an illustration – related to the Timor Leste incident – of how a comprehensive security sector reform is much needed in Indonesia. This requires a strong and consistent judicial system. Unfortunately, the path for judicial reform has also been winding as indicated by the tension between Supreme Court and the Judicial Commission after the latter's call for re-selection of the Supreme Court judges, whose track records have been considered doubtful, if not shameful – especially after the investigation of the Supreme Judge's case of corruption allegation.

Aceh: A Year After The Wrath of God

What has happened one year after the devastating Tsunami hit and flattened Nanggroe Aceh Darussalam? It seems only yesterday that the world was shocked by the immense size of the destruction hitting the Indian Ocean and that global

solidarity reached its unprecedented level. These have brought a new atmosphere to the most western part of Indonesia that has long been torn by three decades of conflict even prior to the destructive earthquake and Tsunami. The signing of the Memorandum of Understanding (MoU) between representatives of the Indonesian government and the GAM in Helsinki has brought about additional new challenges to the region. What has happened after one year?

Peace Building

The disarmament and relocation processes overseen by the Aceh Monitoring Mission (AMM) went quite smoothly with only minor cases of brawls and unfit or missing weapons. The granting of amnesties for political prisoners also went better than expected. There are few particular cases where authorities could not settle on whether some prisoners are actually political or criminal prisoners. But overall, the processes have been encouraging, even though TNI personels and ex GAM members have shown great restraint in meeting all the requirements stipulated in the Helsinki Memorandum of Understanding (MoU).

Reintegration processes of ex GAM members are also underway. Some of the sensitive issues have arisen due to the disbursement of reintegration fund and the list of ex GAM combatants eligible for the fund. The TNI fears that the fund will be utilized to finance further separatist movements. The ex GAM members fear that the list is an excuse to persecute ex combatants. Further complexities emerged when group

disbursement (via ex GAM local leaders) was suggested as alternative. The concerns are that the money could be used by ex GAM elites for political purpose and the interest of maintaining chain of command amongst ex GAM soldiers.²

Regardless the existing problems, the situations mentioned above have indeed been considered as constructive for the overall peace building processes. Yet, such processes would rely heavily on the extent to which post-Tsunami reconstructions are generated and to which political developments would ensue, particularly in light of the upcoming direct regional elections (PILKADA) and the fulfillment of the Helsinki MoU's mandates.

Post-Tsunami reconstruction determines overall society's welfare, which will create contentment of the people over the performance of the government after the devastating Tsunami. It also relates to the fulfillment of people's basic need after all has been taken away by the disaster. This is important to preserve social harmony and contain potential horizontal conflicts if welfare gaps continue to grow. Political development in Aceh concerns the channelling of various political aspirations, particularly that of the ex GAM members, as alternative options to re-build trusts between the Acehnese and the government after three decades of conflict. The essence of the peace agreement is to transform war of weapons to war of politics. Unless central government is duly committed to fulfill the MoU's requirements with regard

to political representation, the possibility of resorting to armed conflict will re-emerged and hopes for democracy in the Verandah of Mecca will be severely compromised.

Reconstruction and The BRR

The one year commemoration of the Tsunami was disgraced by stagnant rehabilitation and reconstruction processes. Disappointment over unfulfilled promises manifested in sporadic but widespread cynicism over the performance of the Rehabilitation and Reconstruction Agency (*Badan Rehabilitasi dan Rekonstruksi* or BRR). Only 20% of the housing and settlement have been constructed. Some 70,000 refugees are still dislocated in various camps, barracks and/or relative's houses. Health, sanitation and clean water facilities could not be accessed easily.³

The BRR, as the superbody supposedly overseeing the Aceh reconstruction, was inevitably prone to criticisms. During a press conference prior to the one year commemoration, Kuntoro Mangkusubroto, Head of the BRR noted that of the Rp 3.9 trillion (approximately US\$ 390 million)⁴ budget allocated for the year 2005, only Rp 1.5 trillion (approximately US\$ 150 million) had been utilized. Another easily

²ICG Asia Briefing No. 44, Aceh: So Far So Good, 13 December 2005.

³Yappika, Civil Society Mapping Report 2006. The report was based on various participatory assessment methods in 91 sub-districts (kecamatan) of 10 districts (kabupaten) in Nanggroe Aceh Darussalam. Focus group discussions, village working group discussions, interviews, observations, were generated in over 300 refugee areas located in those sub districts.

⁴ Currency used US\$1 equals Rp 10,000.

targeted aspect when probing into BRR spending is the salary aspect. Budget allocation for staff spendings reached Rp 285.12 billion (US\$ 28 million) or 2.97% of the total budget (Rp 9.6 trillion or US\$ 960 million).⁵ Such generous allocation would have been bearable if tangible results are successfully made available to the people.

Problems are manifold, and most of them are 'old problems' that have existed since the beginning of the disaster response period. These problems include among others: Lack of or inefficient coordination between government agencies; Centralized reconstruction program planings without serious institutionalization of people's participation; Uneven socialization of the roles and functions of the BRR; Short-term oriented solutions rather than long-term oriented solutions (particularly that concerns the transfer of knowledge and/or skill to local people to enable them to sustain any reconstruction programs after the departure of international agencies); Blurry arrangements for land and property certificates; Patchy provisions of basic public services, such as: health, water and sanitation, as well as education; Increasing numbers of unemployment and scarcity of available short term as well as long term oriented employment opportunities; and many more.

⁵List of monthly salaries based on the 2005 Budget Standard List (DIPA): Head of BRR earns Rp 75 million (US\$7,500) per month; Deputy Head of BRR earns Rp 62.5 million (US\$6,250); Secretary General and Deputy each earn Rp 56 million (US\$5,600). Additionally, each of these people gets Rp 210 million (US\$21,000) for housing allowance.

Another disquieting circumstance is the growing socio-economic gap within the society, particularly with regard to the ex GAM members factor. The well-educated Acehnese youth have benefited greatly from working with huge salaries from international agencies. Other well educated and/or skilled employees would be imported from either out of town or abroad. A large number of Acehnese—whose education has long been deprived of after prolonged conflict—have been left behind due to such socio-economic gap.

Not only that, these people (mostly refugees) are unemployed, yet they cannot fully rely on regular welfare fund allocation (*jatah hidup* or *jadup*). Adding salt to the wound is that ex GAM members would get larger *jadup* and land allocation, which they never owned prior to becoming GAM members. Social tensions that may escalate to horizontal conflicts are amongst the much feared consequences of this lacking. The government must not continue to test the Acehnese tolerance and ability in surviving through disasters.

Governing Aceh: The Bill, the Elections and the Divisions

As society living through the tardy reconstruction, desires to build trust are being tested again with political re-institutionalization of Aceh. In general, the atmosphere for political re-development is much more conducive in any other period in history. People's participation is indeed greater and more dynamic because they no longer have to live with fear and under threat.

Some of the key political developments in the region are the legislation processes of the Bill on the Acehese Government (*Rancangan Undang-Undang Pemerintahan Aceh* or RUU-PA), the upcoming PILKADA, and the debates over the division of NAD province into three provinces (NAD, *Aceh Leuser Antara* or ALA, and *Aceh Barat Selatan* or ABAS).

The Helsinki MoU requires the establishment of a new Law on Acehese Government by 31 March 2006 – prior to any PILKADA. The legislation process is an illustration of the tug-o-war between people's participation and centralized bureaucracy. Various drafts were generated since September 2005. Through various people's consultations (including civil society, ex GAM elements, academics, and religious leaders) facilitated by government representatives and international agencies, these drafts were all compiled into a draft as Aceh Regional Parliament (DPRD) initiative, which on December 2005 was sent to the Ministry of Home Affairs (MOHA) for further deliberation. Amongst the most heated issues are the local political party, independent candidates, natural resources allocation, and *Wali Nanggro*.

The deliberation processes in MOHA were not as transparent and accessible as the ones in DPRD Aceh. At some point the government was sending mixed signals on various hot issues. Early January 2006, for example, M. Ma'ruf, Minister of Home Affairs said that Jakarta had temporarily ruled out the establishment of local political parties, awaiting consideration with the Parliament. But afterwards,

the Vice President affirmed government's commitment to uphold every single term regulated by the MoU.

Finally, on 26 January 2006, the MOHA draft was delivered to the Parliament for deliberation. It included articles on local political parties, despite earlier government's remarks to cut them off. But civil society marked some missing articles on independent candidates and several key points on natural resource allocations. This has ignited a round of peaceful public rally calling the Parliament to return to the DPRD draft instead of using the MOHA draft.

Around Valentine's day, the Plenary Meeting of the Parliament has decided to establish a Special Committee (*Panitia Khusus* or *Pansus*) for RUU-PA. On late February 2006, Golkar legislator, Ferry Musryidan Baldan has been elected as Chairman of the *Pansus*. Vice President Jusuf Kalla, also the Chairman of Golkar, who has played a significant role in the signing of the Helsinki MoU, has already briefed Golkar members to accommodate articles regulating local political party and the independent candidate.

Note that even though articles on local political party are available, regulation on independent candidate(s) is vague. Point 1.2.2 of the Helsinki MoU stipulates that "...the people of Aceh will have the right to nominate candidates for the positions of all elected officials to contest the elections in Aceh in April 2006 and thereafter." There are no explicit rules on independent candidate(s). However, the call for it has been greater than ever, partly

as part of GAM's political campaigns to obtain the people's support through political war, instead of weaponry war.

Amongst the 'oppositions' concerns is the idea of having ex GAM elites as ruler of Aceh. This concern may be premature, if not absurd and unfair. First, it undermines the essence of free and fair elections, which is part of democratic principles. Second, it undermines the local wisdom in responding to the three decades of conflict. Ex GAM members and elites have to struggle to win the hearts and minds of Acehnese, and they will be competing with government officials, local community leaders, religious leaders, etc. The whole competition, if done responsibly and fairly, will be such wonderful lessons of democracy not just for Aceh, but also for Indonesia. With this notion, deliberations in the Parliament can then focus on the soul of peace building in Aceh.

A round of legislative deliberations will be scheduled soon. The most vehement opposition came from Megawati Soekarnoputri's PDI-P, who from the beginning has challenged the motives behind the Helsinki MoU and feared the consequent disintegration of the United Republic of Indonesia. This nearly blind opposition was severely criticized by various elements of civil society, particularly those with great concerns for democracy in Aceh. They believe that any efforts to tarnish the legislation process with political agenda will also impair the ongoing peace processes.

The Bill is a trial of trust between central government and the Acehnese.

Calls for peace and justice have indeed exceeded fear of disintegration. Unless the legislation processes involve greater people's participation and be conducted transparently, and most importantly, in adherence to the Helsinki MoU, the trust will never be established. Only when the Law is established can PILKADA proceeds. Initially, PILKADA was scheduled to take place in April 2006. However, considering present circumstances, the parties involved in the signing of the Helsinki MoU have agreed to postpone PILKADA until June 2006. The PILKADA will not only involve the elections of Governor of Aceh, but also 18 other majors (*walikota* and *bupati*).

Although PILKADA would not be carried until June 2006, many of the observers believe that the time for preparation of PILKADA will not be sufficient even if the Parliament passed the Bill by 31 March 2006. It would take at least 6 months for appropriate democratic elections to be held—from the establishment of the Independent Electoral Commission (*Komisi Pemilihan Independen* or KPI) to the provisions of electoral infrastructures and facilities, and voters' education. Nevertheless, PILKADA in Aceh would indeed be an interesting case for Indonesian local democracy as it will allow local political party to be founded.

Early December 2005, various representatives rallied for *pemekaran* or division of ALA and ABAS. The *pemekaran* discourse was not new in Aceh. Ethnic-based separation has been proposed since early 2000. However, the timing of this latest rally has propelled it into certain level of

fame. Even so, it does not seem that the central government gives too much accommodation to this. The demand has been regarded as elitist rather than representing wider public's demand.

The one year commemoration has shown some indications of how public's attention to Aceh reconstruction have been distracted by the debates over RUU-PA and other matter in different regions throughout the country. It is important to emphasize that the government must not let politics overshadow the reconstruction and development processes in Aceh.

Papua: Quo Vadis MRP?

On the other side of the region, the road to comprehensive implementation of Special Autonomy (Otsus) in Papua has been so bumpy. Security and political issues as well as budget manipulations have complicated things in the most Eastern part of Indonesia.

Mid January 2006, calls for anti-graft investigations were raised by the Papuan Parliament (DPRP) with regard to the prevalent corruption, particularly the one involving allocation worth Rp 2.9 trillion (US\$ 290 million). For example, of Rp 70 billion (US\$ 7 million) allocated to fund the establishment of the Papuan People's Assembly (*Majelis Rakyat Papua* or MRP)⁶, only Rp 3 billion (US\$ 300,000) were recorded. It is not clear what happened to the rest of the fund.

Meanwhile, by end of January and early February, the MRP has conducted public consultation with regard to the West Irian. The results achieved by the MRP and DPRP were not much different that the earlier consensus that generally Papuans prefer to stay within Papua instead of having separated. But these results have not been given consent by all parties, particularly amongst the West Irian elites. The unsettled status of West Irian with the imminent PILKADA will require firm solutions. Some of the Papuan local figures have suggested that the MRP facilitate internal dialogues between various parties in Papua as well as West Irian.

Campaigning period in Papua for PILKADA has begun around end February 2006. The process went quite smoothly and rather festive involving 5 couples competing for Governor and Deputy Governor's position.

Concerning PILKADA in West Irian, Chairman of the West Irian Regional Parliament (DPRD), Jimmy Demianus Itjie, has confirmed that the relevant government officials in West Irian have coordinated amongst themselves the preparation for PILKADA that is scheduled for 10 March 2005, the same time with Papua's. The pair candidates in West Irian include: Abraham Attaruri-Rahimin Katjong, Yorris Raweyai-Abdul Kilian, and Decky Asmuruf-Kastela. He insisted that West Irian's PILKADA must be held at the same time with Papua's. PILKADA in West Irian has been postponed twice. Initially, it was scheduled for 28 July 2005. The second plan was to carry it out on 29 August 2005. So far, West Irian's

⁶Kompas, 19 Januari 2006

PILKADA is yet to be determined while West Irian itself is currently headed by acting Governor, Timbul Pudjianto.

TNI LEADERSHIP

New TNI leadership has been elected and the position was given to Air Marshal Djoko Suyanto, replacing General Endriartono Sutarto. This is the first time in TNI's history since Indonesia's independence that a member of the Air Force was appointed. Article 13 of the TNI Law regulates that a rotation mechanism must be considered. This precedence is indeed conducive for the plan to rotate TNI leadership and establish a healthy leadership mechanism and reduce the domination of the Army. Djoko Suyanto was just appointed as Air Force Chief last year, which paved the way for his appointment as TNI Commander (the law stipulates that only Chief of Staff can be appointed as Commander).

Hopes for internal reform and reorganization of the armed forces are still high. Tensions were evident before and during the deliberations with the Parliament. The appointment of new TNI leadership has long been politicized by the Parliament ever since President SBY withdrew former President Megawati's letter to propose General Ryamizard for the seat in August 2004. Former military commander, General Endriartono Sutarto has proposed his resignation twice already before the new appointment was made. The resignation has been postponed since October 2004 until January 2006, reducing significantly the chance for election for General

Ryamizard, who is scheduled to retire in April 2006.

Before Djoko Suyanto's name was proposed, the initial preference was actually Army Chief General Djoko Santoso. But it seems that President SBY wanted to avoid polarization within the army since there were also some interests vested in the proposed appointment of General Ryamizard Ryacudu for the position. According to Andi Widjajanto, the appointment of Djoko Suyanto was indicative of the President's commitment to military reform through organizational and regeneration process, re-organization for each branch of the military. One important aim is to enhance military's professionalism by balancing the current land-based defense strategy into a more 'integrative defense strategy that relies on the employment of joint military actions', as well as establishing the Military as a non-political organization in light of the upcoming 2009 Elections. Another expectation is the organizational consolidation between the TNI and the Defense Ministry in order to further fortify civilian supremacy and democratization.⁷

The debates surrounding the involvements of the TNI in the 2009 Elections is still being debated particularly in terms of voting rights. Although the Law in effect stipulates that TNI personels were not allowed to vote in 2004 Elections, regulations are not clear with regard to the

⁷ Andi Widjajanto, 'The Implications of Djoko's nomination', in *The Jakarta Post*, 19 January 2006.

2009 Elections. Therefore, they are very likely to vote in the next general elections.

President Yudhoyono could benefit from military reform and involvement in the 2009 Election if he plays his cards right. His close relation with the TNI Commander itself could mean good public relations. There are, however, major preparations to be made to accommodate personnel's voting rights from the military's side (political education, etc) as well as civilian leadership, party system and electoral administration's. Impartiality of the military as an institution must be maintained in order to respect the political rights to vote.⁸

So far, the Minister of Home Affairs, M. Ma'ruf, has shown his support for military personnel's voting rights. Yet, it has invited oppositions from various human rights activists, such as Usman Hamid from Kontras, as well as several government elements, particularly, Muladi, Governor of the Governor of the National Resilience Institute (*Lembaga Pertahanan Nasional* or *Lemhanas*).

Pilkada

There are several legal cases raised during local elections in Indonesia throughout year 2005 that drew public attention. Several areas—such as Central Tapanuli, Depok (Western Java), Mappi district (Papua)—have to postpone the appointment of newly elected head of

region due to such legal cases, not to mention the pending cases of areas with special autonomy, such as Papua-West Irian and Aceh.

In year 2006, there are at least 86 regions (79 districts or *kabupaten/kota* and 7 provinces) waiting for PILKADA. Election in Central Sulawesi in 16 January 2006 will mark the beginning of the election year. Despite the high hope for local democracy, implementations of PILKADA are still marred with inconsistencies and distortions due to the non-figurative nature of the existing laws that are prone to multi-interpretations. Revisions on the elections laws are therefore imperative, particularly on the Regional Electoral Commission (*Komisi Pemilihan Umum Daerah* or KPUD).

There are several factors underlying those unsuccessful implementations of PILKADA 2005. Aside to ambiguous laws, they are: limited time frame that reduces the preparations period; weak administration and bureaucracy particularly with regard to voters registration and calculation of results; weak preventive capacities in dealing with local conflict—be that ethnic and/or religious conflicts especially in conflict-prone areas; and, partial and/or callous law enforcements that seem to be selective and/or ignorant in dealing with clashes amongst candidates' supporters, despite the numerous physical damages, such as the case at Kaur District in Bengkulu Province in July 2005.

Instead of relying upon the goodwill of competing candidates, a strong and independent KPUD would actually give

⁸Indra J. Piliang, 'TNI Commander and 2009 Elections [Panglima TNI dan Pemilu 2009], in *Koran Tempo*, 19 January 2006

leeway for a more accountable and transparent PILKADA. At this point, the fact that KPUD is responsible (though not elected by) Regional Parliament (DPRD) is indicative of political intervention over the implementation of free and fair PILKADA.

The government inaugurated the newly elected candidate—Nur Mahmudi Ismail and Yuyun Wirasaputra—as the Mayor and Deputy Mayor of Depok after the Supreme Court ruled so. Even though the opponents—Badrul Kamal and Shyihabuddin Achmad—have filed the case to the Constitutional Court, the government decided not to let the vacuum of power be prolonged.

RICE IMPORT CONTROVERSY

After the fuel hike controversy, it was the rice import policy that generated another wide-ranging public debate in mass media as well as amongst the elites. The debates that have begun since October 2005 were reignited when the government decided to import 110,000 tons of rice from Vietnam on early January 2006. Such policies, by several critics (including Nasril Bahar from F-PAN, Hasti Kristianto from F-PDIP, Tamsil Linrung from F-PKS), would hurt farmers severely because having imported rice would benefit urban consumers rather than producers. Importing rice, with the excuse of stabilizing price, would also nurture rice mafias at the expense of rural farmers. The government should have utilized Rp 5.3 trillion (US\$ 530 million) to stabilize price, as allocated in the National Budget (*Anggaran Pendapatan dan Belanja Nasional* or APBN).

Proponents of the policy, such as Sarwono Kusumaatmadja, Deputy Head of the Regional Representative Council (*Dewan Perwakilan Daerah* or DPD) have argued that stopping rice import to save farmers is an 'absurd' argument. Some also demanded Bulog to ensure food security even if import must be the option. Attempts were made to encourage the public to see the rice issues in a more comprehensive perspective, with relation to the food security matters. But even some proponents of the policy have criticized the government for having lousy public relations capacity in disseminating this policy to the public.⁹

The Plenary Session of the Parliament had raised the issue; and, of 374 present Parliament members, 207 members have voted for utilizing interpellation rights (*hak interpelasi*) and public inquiry rights (*hak angket*). These rights enable the Parliament to challenge the government of policies through public's responses and question the government over its decision to generate such policies. Only policies, which bear urgent matters and detrimental to the greater public, could go through these processes.

The President and Vice President immediately took measures by having meetings with various political party members, whose party voted for challenging the government – with the exception of the PDI-P. Several ministers were also there, such as Minister of Agriculture, Anton Apriyantono, Minister of Trade, Mari Elka

⁹*Kompas*, 19 January 2006.

Pangestu, and Minister of Home Affairs, Muhammad Ma'ruf, as well as Head of the Logistical Bureau (*Bulog*), Widjanarko Puspoyo. Afterwards, the following Plenary Session of the Parliament decided to reject the utilization of these rights. This, however, does not mean that the debates have ceased.

The rice policy reflects the inefficient ways government agencies distribute information, particularly with regard to rice stocks and price on market, and farmers' capacity as well as distribution. It also shows how the Parliament is still prone to government's intervention and how political parties in the Parliament have made themselves busy proponents rather than opposing parties.

Other POLITICAL AND LEGAL ISSUES

Timor Leste

Indonesian border with Timor Leste has gone through a quite intensified period. Amongst these frictions include the shooting of Indonesian citizens who were also former East Timorese on several border areas. The current case case involved three Indonesians, who were fishing at the Malibaka River, which is a neutral zone, in early January 2006. Responding to such case, fellow Indonesians who are also former East Timorese have staged several demonstrations in front of the Regional Parliament (DPRD), criticizing the United Nations as well as burning the national flag of Timor Leste. These 1,500 protesters became more agitated when they were not allowed to access to the corpse of one of the shooting

victims. They have moved passed the Motaain Border and crossed over 100 metres of the border into Timor Leste. Several media have reported that they were provoked by the Timor Leste security officers posting at the Batugade Border.

A joint team of the National Police (POLRI) and TNI embarked to Atambua, East Nusa Tenggara, to investigate the Malibaka incident together with Timor Leste security apparatus. This team comprised 38 personnels, including the East Nusa Tenggara Regional Police, 22 from TNI, Ministry of Foreign Affairs and the Land, Water and Sea Survey Coordinating Body.

Supreme Court Vs. Yudicial Commission

After several embarrassing corruption cases in the Supreme Court that peaked with the blatant investigation of the Head of the Supreme Court, Bagir Manan, the Judicial Commission has taken the initiative to propose for re-selection of the Supreme Judges of the Supreme Court. This step was taken due to the consideration of removing court mafia in the judicial body and has been proposed to manifest as Government Regulation Replacing the Law (*Peraturan Pemerintah Pengganti Undang-Undang or Perpu*), which will be proposed to the President.

The President has expressed his support for this draft Perpu. However, Commission III of the Parliament questioned the drafting of this Perpu and Commission II of the Parliament rejected that regulation. Consequently, tensions have continued to build up. There have been efforts to break up the ice. Yet, it has

not impaired the Judicial Commission's intension to scrutinize the performances of the Supreme Court. If the Judicial Commission can maintain its performance, as the Anti Graft Commission (*Komisi Pemberantasan Korupsi* or KPK) has, then it will bring about great contribution to judicial reform in Indonesia, particularly in light of the pervasive court mafia in the country. The Judicial Commission is currently working closely with civil society, particularly those with specific anti-graft working areas – such as: Indonesian Corruption Watch, etc.

Poso

Around the end of 2005, numerous unsettling news on bombing incidents, arsons and armed conflicts in Poso were reported in various national media. Eight people died at the market near Maesa and dozens other injured when a bomb exploded near a pork stall. Another bomb went up near a Zion church near Poso. At least, five government offices (Social Service Office, Regional Treasury Office, Regional Development Oversight Office, Office of the Department of Fisheries and Sea, and Health Service Office) were burnt

down by unknown perpetrators. Head of Poso Police was also shot when he was about to do the morning prayer.

Earlier assumptions raised the possibilities of these unrests as religiously induced ones, as the region has long suffered religious conflicts—predominantly between Moslems and Christians. Later, there have been other assumptions that these unrests are diversion from the recent anti-graft investigations on the corruption—of the humanitarian funds by numerous government officials from various level and sectors. The investigations have estimated that around 60% of the humanitarian fund has been misused by state officials. Various civil society elements have launched anti-graft campaigns for quite some time and the efforts have gained national attention, particularly of the KPK.

Nevertheless, these unrests are indicative of the weaknesses of the security apparatus, particularly the intelligence. Further inability to solve such cases will raise questions on the extent to which security apparatus may have been involved in the misuse of funds.

REVIEW OF ECONOMIC DEVELOPMENT

Upbeat Growth Albeit Reduced Momentum

Imelda Maidir

INDONESIA'S economy grew by 5.6% last year, higher than the 5.05% notched up in 2004 but lower than 6% of government target. The slower than expected growth was associated mainly with a soaring inflation that stymied consumer demand and investment in the fourth quarter.

Expenditure side: consumption and investment were waning

This trend was consistent with a numbers of related indicators, e.g. sales of vehicles and consumer confidence. The

leveling off in consumption was also related to a lower real disposable income resulted from high inflation.

Similarly, although maintaining a healthy pace of expansion, investment eased in 2005. Investment growth picked up to 15.6% in Q2-2005 before declining to 1.8% in Q4-2005. The second phase of fuel subsidy reduction on October 1st was likely to contain investment activities. The period also saw further loss of growth in non-construction investment. Reduced investment was also evident a lower business sentiment, and tight access to credit.

Table 1. Components of GDP Growth: Expenditure side (2000 Prices; Y-o-Y)

	Q1	Q2	Q3	Q4	2004	2005
Household consumption	3.4	3.8	4.4	4.2	4.9	4.0
Government consumption	-9.6	-6.7	14.7	30.0	1.9	8.1
Gross fixed capital formation	14.1	15.6	9.4	1.8	15.7	9.9
Change in stock	131.4	-107.1	-40.6	-156.9	323.6	-81.7
Export of goods and services	11.8	11.2	4.8	7.4	8.5	8.6
Less import of goods and services	18.8	17.9	10.6	3.7	24.9	12.3
Gross Domestic Product	6.3	5.6	5.6	4.9	5.1	5.6

Source: BPS

Production side: a sluggish expansion

On the supply side, all economic sectors were undergoing expansion, although growth of some sectors such as agriculture, manufacturing and construction were weakening. The waning in the agriculture sector was led by the drop of 7.7% in the forestry sub-sector.

Non-oil and gas manufacturing sector gradually slowed down from 7.5% in Q1-2005 to 4.1% in Q4-2005. The raising oil prices

and world's slowing economy put a brake on Indonesia's manufacturing production. The European Union decision to restrict Chinese exports of textile and textile products could not be utilized by this sector, which grew at slower pace. Paper products, chemical and transport equipment recorded sluggish expansion due to severe competition and the structural weakness of the sector. Meanwhile, wood products and basic metal manufacturing continued to experience a negative growth in 2005.

Table 2. Components of GDP Growth: Production side (2000 Prices; Y-o-Y)

	Q1	Q2	Q3	Q4	2004	2005
Agriculture	1.1	0.9	2.9	5.5	4.1	2.5
Mining and Quarrying	4.1	-0.5	1.0	1.9	-4.6	1.6
Manufacturing, petroleum & gas	-3.2	-5.3	-5.6	-7.1	-4.6	-2.7
Manufacturing, excl petroleum & gas	7.5	6.2	5.7	4.1	7.7	5.7
Electricity, gas, and water	6.4	6.9	6.6	6.1	5.9	6.4
Construction	7.4	8.2	6.9	6.9	8.2	7.4
Trade, hotel, and restaurant	9.9	10.0	8.6	6.	5.8	8.6
Transportation & Communication	14.3	14.1	13.0	10.8	12.7	12.9
Financial, ownership & business	6.7	8.9	7.9	5.2	7.7	7.1
Services	4.6	4.4	5.6	6.0	4.9	5.2
Gross Domestic Product	6.3	5.6	5.6	4.9	5.1	5.6

Source: BPS

OUTLOOK FOR 2006

Despite slightly reduced momentum, the outlook should remain favorable. The economy is expected to take on a more sustainable growth structure, with investment and exports continue taking on a greater role in contrast to moderate growth in private consumption. Nevertheless, it is important to note that the recovery would not immediately occur. Still, the biggest concern has to be the rising price of oil and high inflation rates. As such, despite the robust government spending on first quarter, we expect to see an expansion will put on the brakes until mid 2006, and reach 5.5-5.8% in 2006.

MONETARY DEVELOPMENT

The monetary authority kept a steady hand over macroeconomic development in 2005 and throughout Q1-2006. Annual

inflation in 2005 stood at 17.11% as the result of fuel subsidy production. On the other hand, the currency improved by more than 8% against the US dollar on continuing positive sentiment in economic outlook.

Subsidy reduction set off price hike

Inflation hit 17.11% in 2005, far exceeding the government's original target of 7%. This surge in inflation was fueled by fuel-subsidy reduction on October 1st, which pushed October's annual inflation to a six-year high of 17.89%. Transportation, and the housing and utilities sector were the main contributing sectors of inflation in October. About 5.5% of October 2005's monthly inflation of 8.7% was directly fuel-price related. Meanwhile, adjustment of food prices also pushed prices upwards.

Table 3. Contribution of expenditure groups to total inflation, Oct 2005 – Feb 2005

	Oct 05	Dec 05	Feb 06
Food	1.78	-0.32	0.28
Processed food, beverages, cigarettes	0.57	0.11	0.11
Housing and utilities	1.94	0.09	0.13
Clothes	0.11	0.05	0.04
Health	0.04	0.02	0.01
Education, recreation and sports	0.09	0.00	-0.02
Transport, communication and financial services.	4.17	0.01	0.03
TOTAL	8.70	-0.04	0.58

Source: BPS

As expected, parts of the October inflation was somewhat of an overshooting: following a tight monetary policy, the end of 2005 witnessed a mild deflation. However, as soon as signs of pressure have begun to abate, consumer prices rose again. Inflation rate posted a notable 17.92% (y-o-y) in February, up from 17.03% (y-o-y) in January. Food, housing and utilities continued to be one of main sources of inflation. Food prices continued to rise even after the festivities were over due to the increase in the prices of rice, as a result of a combination of bad harvest, distribution bottleneck, and controversies over rice imports.

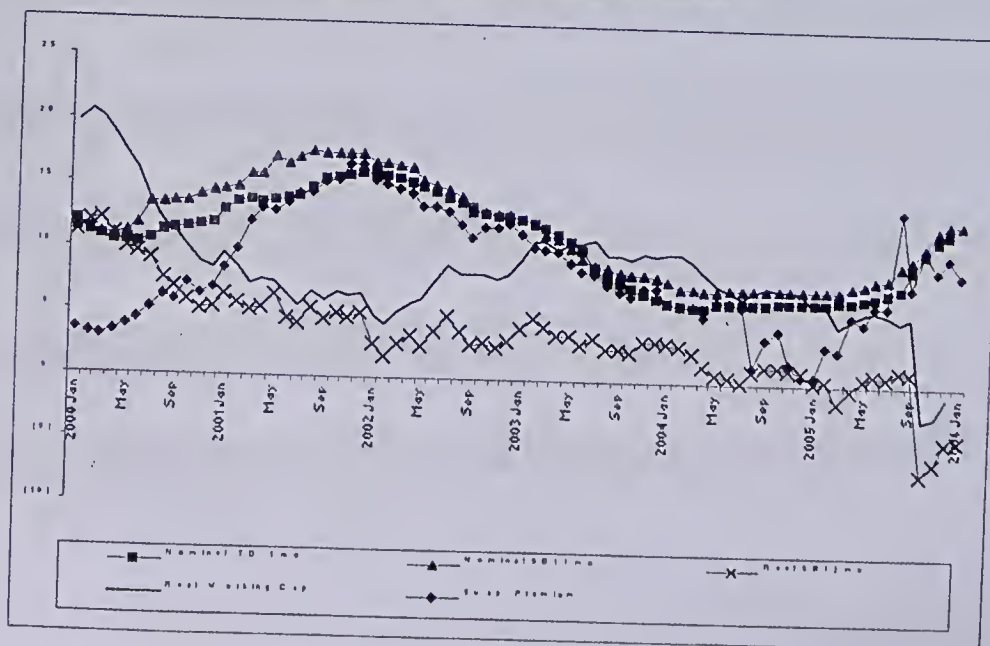
Aggressive interest rates hike to tame inflation

Upbeat that inflation will eventually subside over the course of 2006, BI

nevertheless maintained its tight bias with regards to the interest rates. BI still sees possible inflationary pressures and volatility in the rupiah coming from factors such as lingering unstable oil prices, trade imbalances and a worldwide tendency for tight monetary policies. BI rate was practically at a standstill, moving within the band of 7.42 to 7.95 in first semester of 2005. Surging inflation and the weakening Rupiah has prompted the central bank to increase BI rate by 450 basis points from 8.25 at the end of Q2-2005 to 12.75 at the end of Q1-2006. However, with the massive increase in price inflations since October 2005, real interest rates declined from 0.94 at the end of Q3-2005 to minus 4.36 at the end of Q4-2005.

Meanwhile, nominal working capital lending rates rose from 13.36% to 16.23% between the end of Q2-2005 and the end of Q4-2005. With a tight access to credit,

Figure 1. Various Interest Rates



however, credit growths remained positive and strong across the board, albeit at slower pace. Credit growth in Q4-2005 was not as strong as in the previous quarter, with an average annual growth of 27.2% throughout Q4-2005 compared to 30.6% in the previous quarter. Against this background, BI is expected not caving in to calls to ease its monetary policy despite the Rupiah's recent strengthening and the cost of a high-interest.

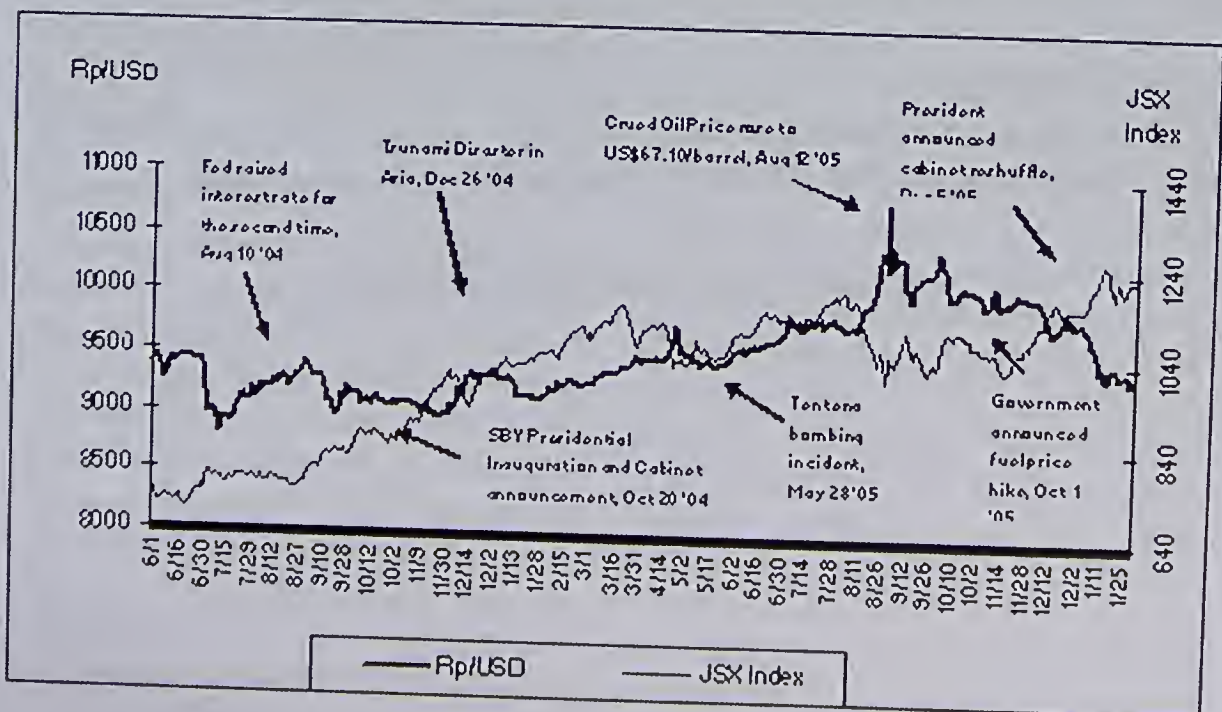
Rupiah boosted, stock market continued climb

The rupiah has reached its highest level since March last year as it continued to draw on the capital inflow. It has enjoyed an 8.7 percent since the currency broke past the Rp 10,000 level on Dec 5th further to Rp. 9,130 per dollar. *First*, the

rupiah's rise was primarily due to the region-wide weakening of the greenback. *Second*, the rupiah also gained from the fact that dollar demand for corporate debt servicing and import needs, including for oil, have eased since the end of last year. *Third*, it was also strengthening on expectations that inflation would ease this year, boosting market confidence in the country's economic prospects.

At the same time, with positive expectations of the economic outlook—particularly, after global rating agency Standard and Poor's (S&P) raised Indonesia's sovereign credit rating outlook—the Jakarta Stock Market continued to climb upwards. The sentiment managed to lift the stock market, and the JSX index increase to near its psychological high of 1,270.

Figure 2. The Exchange Rate and the Stock Price



Prospects

Looking ahead, the delay of the planned electricity rate rise will give a breathing space for the central bank. Hitherto, BI has predicted the first quarter inflation would be at 18% on the possible electricity rate increases, before easing in the following quarters to about 8% by the fourth quarter of the year. However, the central bank still regarded inflationary pressure with caution; hence, we reiterated our estimation that BI rate would move thinly at around 12.5-12.75% until mid 2006.

Most of the capital inflow is believed to be short-term funds, which tend to shift easily within a short time and create pressure on the Rupiah. Nonetheless, in the short run, we predict the Rupiah could test a high of Rp. 9,000, before hovering around 9,200-9,350 in the near future.

BALANCE OF PAYMENT

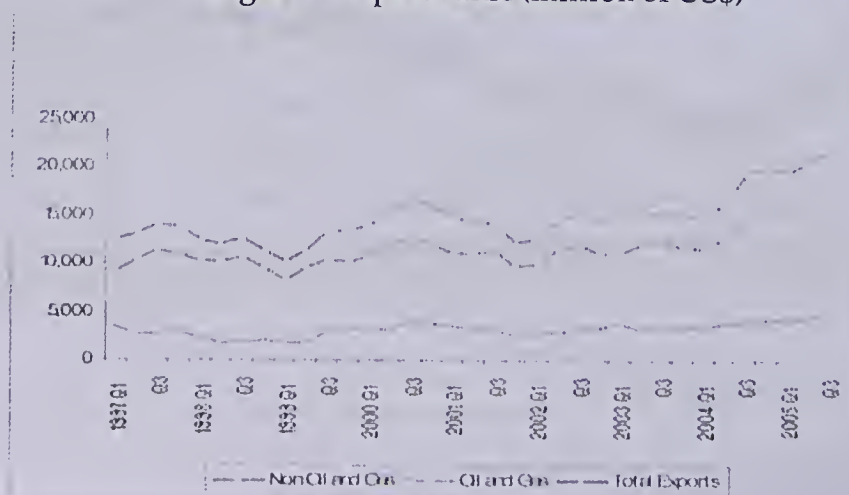
In 2005, Indonesia's exports reached US\$85.6 billion, an increase of 19.5%

compared to 2004. Imports surged to US\$ 57.5 billion, a 23.7% increase from the previous year, resulting in a declining trade balance. We expect the current account surplus for the year 2005 to be lower than in 2004 due a smaller trade surplus and a service account deficit. The capital account improved significantly, booked a surplus of US\$ 6.3bn.

Export and imports

The year 2005 witnessed a notable increase in trade performance. Total exports reached US\$85.6 billion, exhibiting an almost 19.53% growth (y-o-y). This can be attributed to the increase in oil and gas exports and in manufacturing exports, which grew 23.03% (y-o-y) and 18.55% (y-o-y) respectively. Machinery and electricity equipment remained to be the largest manufacturing export commodities, contributed about 11% of the total manufacturing exports. Meanwhile, the Japan, US and Singapore continued to be the largest destinations for Indonesia's exports, accounted for about 39% of Indonesia's total non-oil exports.

Figure 3. Export value (million of US\$)



Meanwhile, total imports grew by 23.7% (y-o-y) and reached US\$ 57.5 billion, largely as a result of the rise in oil and gas imports as well as capital goods. Oil and gas imports, which constituted about 30% of Indonesia's total imports, rose by 48% during the year. Meanwhile, capital good imports increased by 27%, which may actually lead to high exports in the coming months.

In 2006, exports of goods and services are expected to gather momentum. There are at least two reasons as to why this may be the case: the rising world demand for good and services, and domestic firms continue to import capital goods. On the other hand, one should be careful in making such a prediction. Domestic business climate shows no significant improvement. Meanwhile, the recent increase in fuel prices may lead to higher production/transportation costs. In addition, the 8.7% gains in the Rupiah would clearly be disadvantageous for export growth, although the detriments should not be exaggerated.

Current account

The surge of imports resulted in a lower trade surplus in 2005 and is confirmed by BI preliminary figure of 2005 trade balance. During the period, trade balance was about US\$ 2.9bn, about 3.5% lower than in the previous year. It is likely that the actual trade surplus is even lower. The BI preliminary figure also indicates that the current account surplus for 2005 is likely to be smaller than that in the previous year, not only because of a smaller trade surplus but also because there

have been high imports of services as well increases in interest payments and income transfer abroad.

Capital account and FDI

The BI preliminary figure on capital flow shows that capital continues to flow into the country. In 2005, capital account surplus reached US\$ 6.3bn compared to a net inflow of US\$ 2.6bn in 2004. The source of capital account surplus was the net inflow of foreign direct investment of US\$ 2.2bn and a sustained increased of portfolio investment.

House deliberates tax law revisions

On November 21st, 2005 legislators began to deliberate the much-debated tax law amendments. The three bills to be discussed are Law No. 16/200 on general taxation arrangements and procedures, Law No 17/2000 on income tax, and Law No. 18/2000 on VAT and luxury tax.

The proposed revisions will result in a temporary loss in tax revenue, but this is expected to be compensated by the increase in the tax base. The government claimed that it has 'sacrificed' some Rp 35 trillion (US\$ 3.49 billion) in tax revenue to make the draft a business-friendly through various tax cuts. The bills also introduce administrative breakthroughs, with time limits for tax procedures, selective audits of taxpayers, and the establishment of a special commission to supervise tax officials. The bills propose time limits for income-tax and VAT claim refunds that do not require further audits.

On the other hand, The Indonesian Chamber of Commerce (KADIN) has openly argued that the bills would hurt investment climate if they still retain their many stipulations considered unfriendly to business. Among issues that have been the center of their objection to the tax reform bills were the imbalances between the power of tax officials and rights of taxpayers, and the only gradual tax rate cuts.

Tax officials remain to be subjected only to internal control in the directorate general and the finance ministry, with

officials suspected of tax crimes or violations being investigated only by their colleagues. Meanwhile, taxpayers will face heavier sentences if suspected of violating the tax laws.

With a possible massive overhaul of the bills, such a reform of the country's tax regime could only start in 2007, one year later than expected. The government passed on the draft amendments to the House of Representatives for deliberation in early September in the expectation that the new bills would come into effect on Jan 1, 2006.

Securitizing Infectious Diseases in Asia*

Mely Caballero-Anthony

AGAINT the looming threats of the next global pandemic, possibly from the outbreak of a virulent influenza, the question of whether states should treat infectious diseases in security terms has once again been raised—this time, of greater urgency.

Although the concept of security, particularly in East Asia, has been expanded to include both conventional and non-conventional threats—hence the prevailing notion of comprehensive security—the idea of health security has not been included in the region's security lexicon. But given the multidimensional threats to national security posed by infectious diseases like HIV-AIDS, SARS and more recently the H5-NI virus (or better known as the bird flu), the arguments for securitising infectious diseases have become more compelling. Some of the reasons for this are as follows.

LESSONS FROM SARS

It was not too long ago when Asia was hit by the virulent corona-virus that caused Severe Acute Respiratory Syndrome (SARS). SARS, which turned out to be one of the most devastating and feared diseases in modern history, was instructive in that it demonstrated how the pandemic was more than a health crisis. The news and narratives about SARS reveal the extent of the health crisis which was not limited to loss of life alone but extended to other areas socio-economic, political, and security. In 2003, the virus infected about 8,000 people worldwide and killed nearly 800.

The panic was however compounded by the fact that there was no known cure for SARS, and while the death of SARS was much lower than the quarter of a million casualties of the Boxing Day tsunami, many of the victims were health-care workers. The psychological impact was significant. In the words of Dr. Cecilia Chan, Director of the Centre for Behavioural Health at HKU—"when doctors and nurses cannot take care of

*Paper prepared for presentation at the 5th CSCAP General Conference, Jakarta, Indonesia, 6 -7 December 2005.

themselves[become victims], the whole community panics." To be sure, the SARS crisis placed the region's medical capability to test.

The impact of SARS was not only psychological. It also hit where it often mattered most severe economic impact. The extent of the economic impact of SARS was reflected in the sudden disruption of economic activity in several Asian economies. Although the crisis lasted for about 5 months, the economic loss was estimated to be US\$50 billion for the region and about US\$150 billion worldwide.¹

Moreover, SARS caused political ripples in the international community. The poor handling of SARS at the early stages undermined state credibility and led to international calls for more transparency and accountability. The other significant impact was how crisis management measures introduced by states, particularly the mandatory quarantine, were viewed by some people as a curtailment of civil liberties.

THREATS AND BURDEN OF INFECTIOUS DISEASES

The other reason why the international community need not wait for the worst-case scenario of state failure before infectious diseases can be considered as a matter of national security is the changing nature of threats and the burden of infec-

tious diseases that faces us today.² These are compounded by the following factors.

First, with globalization, the scale, speed, and extent of movement of people and goods are parallel. According to the WHO, new diseases are emerging at an unprecedented rate of one per year. Examples include ebola hemorrhagic fever in Africa, the West Nile-hantavirus pulmonary syndrome in the US, and Nipah encephalitis in Southeast Asia. Older diseases like cholera and tuberculosis have reemerged. New strains have appeared of food-borne diseases like Creutzfeldt-Jacob, (mad cow) disease, first detected in 1996, and highly unstable forms of flu virus-SARS and now Avian flu being one of these. Klaus Stohr, the WHO Head of Global Influeza Programme had warned that if this impending 'big' flu pandemic will break out, about 2 million people in Asia and 7 million people globally will die from a virulent new H2H influenza strain such as H5N1, and another 1.5 billion lives will seek medical attention. And, while a vaccine can be developed, it may be a case of "too little, too late for many victims".³

Second, (aside from globalization), there are "artificial" disease force-multipliers which greatly exacerbate not only the incidence but also the spread of infectious

¹For more discussion on the security implications of SARS, see Mely Cabal Iero-Anthony, "SARS in Asia: Crisis, Vulnerabilities, and Regional Responses," *Asian Survey* 45, 3 (June 2005): 475-495.

²For an excellent discussion of the interrelatedness of these factors, see Jennifer Brower and Peter Chalk, *The Global Threat of New and Re-emerging Infectious Diseases: Reconciling US. National Security and Public Health Policy* (Santa Monica, Calif: RAND, 2003), 13-30.

³See "What Ails Asia?," *Asian Wall Street Journal*, 21-24 April 2005.

disease. These include modern medical practices, accelerating urbanization, climate change resulting from global warming, and new social and behavioural patterns.

Third, the threat from infectious pathogens is greater today than ever. The outbreak or even resurgence of infectious diseases has shown us how these types of diseases could in fact undermine a state's control of what happens within its territory and could in turn threaten regional stability. Diseases like SARS have made countries aware of their vulnerability to the threats of infectious pathogens, which can easily cross borders in ways that defy traditional military defence. And, as the SARS experience has borne out, while countries can tighten immigration controls to turn away travellers who might be carriers, this measure failed to stem the spread of the virus. As aptly described by a virologist at Hong Kong's Queen Mary Hospital, "virus(es) do not carry passports."⁴

⁴ See, for example, David L. Heymann, "The Evolving Infectious Disease Threat: Implications for National and Global Security," Paper presented at the Health and Human Security Workshop, John F Kennedy School of Government, Harvard University, 14-15 October 2002; Mary Kay Kindhauser (ed), "Global Defence Against the Infectious Disease Threat," *World Health Organization*, Geneva, 2003; Shannon Selin, "The Security Implications of SARS," *CANCAPS Bulletin*, no. 37 (May 2003): 9-13; Mely Cabalero-Anthony, "Health Crisis in Asia: A case for securitising infectious diseases," Paper delivered at the International Conference on "Taming Globalisation and Regional Governance," Warwick University, 26-28 October 2005

WHAT IT MEANS BY 'SECURITIZING'?

A question that needs to be asked is: How does adding a security label to infectious diseases help better address the threats they carry? Many have argued that 'securitizing' infectious diseases allows for better awareness and preparedness in addressing the kinds of threats brought on by infectious diseases, and makes states conscious of the other insidious impact of these diseases on the well-being of states and societies.

Securitizing also requires translating mere pronouncements of the security threats of infectious diseases to adopting an integrated approach involving several actors working together with the medical community to cope with immense problem of infectious diseases. In doing so, health is no longer just a "medical" concern but also a security concern. The "artificial" distinctions between "health" and "security" which has been the norm must be removed. Unless this mental hurdle is crossed from "medicalizing" infectious diseases to "securitizing" them, then not much progress can be made to push this agenda forward.

ISSUES AND PROBLEMS IN 'SECURITIZING' INFECTIOUS DISEASES:⁵

Attempts to 'securitize' infectious diseases in the region, however, have been rather limited. These have been the

⁵ This section draws extensively on the IDSS-FORD Project on Non-Traditional Security and from papers that examine the issue of securitising infectious diseases written by

findings of the IDSS-Ford papers on Non-Traditional Security that looked at the process of securitizing infectious diseases. In a recent study on *Infectious Diseases in Asia*, Peter Chalk had argued that while regional states may have begun to recognize the security dimension inherent in the contemporary "microbial era", most still continue to regard this unconventional security threat in traditional terms-effectively recognizing only one facet of the overall disease threat which is its use as a weapon for offensive purposes.

First, it has been observed for instance that a number of countries have already put in place integrated homeland security structures complete with dedicated bio-response components. Even official deliberations in multilateral forums (ASEAN, ARF and APEC) now include contingencies for threats of bio-terrorism and how to aggressively counter-act potential proliferation of offensive microbial technologies. These efforts however do not address the broader dimensions and concerns of health and human security.

Second, the effects of microbial spread, while significant, do not typically pose an immediate strategic threat to the state concerned. The delayed impact associated with an infectious disease has, accordingly, mitigated the sense of urgency that often drives decision-making (and resource allocation) among security planners and decision-makers. This has in turn prevented decisive action, such as allocating human and financial resources to combat the disease.

A good example of this is the way the HIV-Aids problem has been handled by states. One recent study indicated that while the disease has been aggressively managed in richer developed countries, it is not given the kind of urgency in Asia despite the number of actors who have campaigned to securitize AIDS. This response clearly needs to be drastically changed given the recent WHO study that shows that some countries in Asia have been identified as the next possible frontlines in the AIDS pandemic.⁶

Third, it is the salient, yet inevitable, issue of having to overcome concerns of internal interference when attention is directed to a country's domestic condition. Outbreaks of infectious diseases often result in directed attention on domestic conditions of state capacity, crisis management and public administration. This runs directly counter to the strong norm against internal interference that extends across the A-P region.

Fourth, the major preoccupation of domestic preparedness and crises management since 9/11 have been oriented around transnational terrorism and its potential for mass destruction violence. It is thus hardly surprising that contingen-

Peter Falk, "Disease and the Complex Processes of Securitization in the Asia-Pacific", and Ilavenial Ramiah, "Securitizing the AIDS Issue in Asia" in Mely Cabalero-Anthony, Ralf Emmers and Amitav Acharya, (eds), *Non-Traditional Security in Asia: Dilemmas in Securitisation* (Ashgate, 2006).

⁶Ilavenial Ramiah, "Securitizing the AIDS Issue in Asia", in *Non-Traditional Security in Asia: Dilemmas in Securitisation*, op.cit

cies involving bio-weapons are the ones that have figured most prominently in the calculations and deliberations of government officials. In this sense, disease has been securitized simply as a by-product of its assumed linkage to extant threats that are already recognized as posing a serious danger in the region.⁷

Fifth, many A-P states are characterized by security and intelligence establishments that are inherently conservative when it comes to threat perception. The inevitable consequence has been that most agencies and bureaus are simply unwilling to adopt new operational mandates that extend beyond traditional areas of hard security.

Finally, those epistemic communities best placed to stimulate more innovative thinking about the destabilizing potential of disease, such as public health officials and bio-scientists, have generally not focused on the security-relevant aspects of 'microbial' challenges.

TAKING SECURITIZATION FORWARD

Although it remains to be seen whether infectious disease will be successfully (and holistically) securitized, there have however been some significant developments that

are indicative of how the Securitization process is starting to take place in Asia. The recent outbreaks of highly contagious and virulent pathogens, such as SARS, have arguably, already started to impact the attitude of policy-makers and decision-makers towards disease. We are now seeing several regional collaboration in fighting infectious diseases within the ASEAN and the ASEAN + 3 frameworks, including the setting up of the SARS Fund and the initiatives to set up a regional centre for disease surveillance control.

One notes, however, that the limited meetings within the ASEAN and ASEAN+ grouping have not really combined public health personnel with policy researchers, and there are none which do that within a foreign and security policy framework. It is certainly a gap which needs addressing, especially given the impact a major infectious disease outbreak would have on regional relations.

The international community also needs 'catalyzing actors' with substantial influence over national governments that do recognize new and re-emerging diseases as a threat in their own right—who could then persuade affected national governments to securitise infectious diseases in their own country. The 'catalyzing actors' include the UN, WHO and CDC—that are critical in encouraging a more comprehensive process of securitization in the A-P. These actors could also be specific governments who could take the lead in persuading other countries to pay more attention to infectious diseases. The U.S. government, for example, has already begun to do so with President Bush

⁷See for example, "Indonesia on Cusp of AIDS epidemic: UNAIDS Chief", *Channelnews Asia*, 28 November 2005. In the report Mr. Peter Piot, UNAIDS chief had warned that given the increasing number of people in Indonesia infected with HIV, the country could be on the brink of an AIDS epidemic, and thus urging authorities to act quickly to fight its spread.

signing the US Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (H.R. 1298).

Asia, therefore, needs these kinds of actors who could take the lead in encouraging communication between international agencies, governments and the wider population to alert them to the insidious threats of infectious diseases. The speed with which this region is able to develop comprehensive strategies and to fully securitize infectious diseases like HIV/AIDS issue will be critical to averting the serious disaster which these types of epidemic can cause in the next few decades.

But more can certainly be done. To start with, infectious diseases can assume a more significant place on the regional security agendas of states, beyond the narrow confines of bio-terrorism and biological warfare. It is therefore high time to *re-think our conception of comprehensive security* to include the important dimension of health security. So far, this is yet to be found in our security lexicon. In this regard, epistemic communities like CSCAP could lead the way in agenda-setting of security issues relevant to this region.

TOWARD AN INTEGRATED APPROACH

Integrating health as a component in the region's notion of comprehensive security allows for adopting an integrated, multilateral approach in fighting infectious diseases. A good way to proceed with an integrated approach is to bring together different actors to work with the medical

community to cope with immense problem of infectious diseases. This would require increased cooperation among agencies that have historically had little to do with one another—including defense, justice, intelligence, public health, agriculture and environment. This also means that new executive functions may need to be created to coordinate such multidimensional responses. Domestic institutional structures that have traditionally focused on narrow, statecentric concerns, for instance, may need to be expanded and developed to accommodate new challenges that impact on broader societal interests. Underpinning this approach, of course, is a change of mindset to treat health as no longer just a 'medical' concern but also an issue of national security.

An integrated, multilateral approach also requires addressing the challenge of building a good mechanism for global, regional and domestic disease surveillance and control, thereby developing and promoting international regimes to avert health disasters. Hence, strengthening cooperation at various levels—local, national, regional, and global must be emphasized.

In this regard, the regional norm of non-intrusive, consensual decision-making will need to be revisited to allow for more concerted collective action, particularly in terms of addressing prevailing domestic conditions that could give rise to pathogenic threats.

Closely related to this is also the centrality of providing good public health systems. This is an important, but

oftentimes ignored, challenge. In many parts of developing Asia, there is more often the absence and/or lack of basic health care facilities and poor health infrastructure. This problem is basically due to inadequate resources allocated to public health, particularly the provision of primary health care facilities.⁸

Last but certainly not least is the need for the region to revisit the issue of poverty and its linkages with infectious diseases. It is widely known that the burden of infectious diseases like HIV/AIDS, malaria, and tuberculosis falls overwhelmingly on the world's poorest regions.

According to the WHO, in 2002, 75% of all deaths due to infectious diseases occurred in Southeast Asia and sub-Saharan Africa, and of that figure; 28% comes from Southeast Asia. Moreover, women and children are most susceptible to the impact of infectious disease.⁹ Thus, adding infectious diseases to the security agenda, as well as considering innovative approaches—both integrated and multilateral—should be part and parcel of the rethinking of security in the region.

⁸For a more extensive discussion, see Mely Caballero-Anthony, "Health and Human Security in Asia: Realities and Challenges", Paper prepared for the Commission on Human Security. Also published in *Global Health Challenges for Human Security*, Lincoln Chen, et. al (eds), (Cambridge, MA: Harvard University Press, 2003), 233-255.

⁹Women account for more than 50% of new HIV infections and among adults, pregnant women are the most at risk for malaria, (Global Health Council at www.globalhealth.org/printview.php3, accessed 29/5/2005).

Appendix

Some Facts and Figures on the Looming Threats from Infectious Diseases:

Avian-flu (H5-N1): In Southeast Asia, several human infectious have been reported since December 2004. As of November 2005, the total number of confirmed human cases of avian influenza in Asia is 133 (21 in Thailand, 93 in Vietnam, 12 in Indonesia, 3 in China and 4 in Cambodia), (WHO Update, Nov 2005). Human cases in the last two months serve as a reminder that the cause of outbreaks in poultry is by no means under control and the continued full attention on human and animal influenza surveillance networks in the region and the rest of the world is warranted. The WHO head of Global Influenza Programme, Klaus Stohr, had warned of this impending 'big' flu pandemic. Based on WHO estimates based on the 1968 last flu pandemic in Hong Kong, 2 million (Asia) and 7 million globally will die from a virulent new h2h influenza such as H5N1, and another 1.5 billion will seek medical attention. Once this new strain emerges, a vaccine can be developed, but it may be too little, too late for many victims. (AWSJ, "What Ails Asia", 21-24 April 2005). Since even if there is a vaccine breakthrough, countries will still have trouble stockpiling huge amounts of costly antiviral drugs and there could be 'huge' gaps in production capacity for vaccines.

Malaria: Leading killer among children under 5 and major contributor to adult

morbidity in sub-Saharan Africa. More than 300 cases a month and one million deaths occur each year. More than 10 million under 5 years of age die every year in low and middle-income countries. But on 370,000 deaths are attributable to AIDS. It is lower respiratory disease, diarrhoeal diseases and malaria—all of them predominantly diseases of poverty—account for 4.4 million deaths each years (WHO 2003:12)

Tuberculosis: (TB) kills nearly 2 million people every year, and more than 90% of whom live in developing countries.

HIV/AIDS: It is estimated that about 30 million people in the developing world—most of them in sub-Saharan Africa—are infected with HIV, the virus that causes AIDS. But less than half a million people in the poorest countries are receiving antiretroviral drugs and other treatments they need.

In 2004, WHO figures reveal total AIDS death to be 3.1 million, with more than half a million from Asia. About 14,000 new HIV infections a day, more than 95% are in low and middle-income countries. Although HIV infection levels in Asia are low compared with other continents, but the population of many

Asian nations are so large than even low national HIV prevalence means largenumber of people are living with HIV. Latest estimates show more 8.2 million living with HIV. Whereas 10 years ago, Asia had an infection rate of 1 person in 10 infected globally, now the figure changed to 1 in five infections are in Asia.

Country estimates (WHO, 2003):

- China-10 million by 2010.
- India-current estimates show 5.1 million living with HIV. Fear that India was going to replace South Africa as the state with the most number of living with AIDS. UN AIDS says figure could be high as 7.6 million. Interestingly, more Indian soldiers now die of HIV/Aids than of bullets fired by militants.
- Indonesia-current estimates show that 90,000-130,000 people are infected with HIV. Given that Indonesia is the 4th most populous country, UNAIDS chief Peter Piot had warned that it is on the brink of an AIDS epidemic (Straits Times/CNA/Reuters, 28 Nov. 2005)

The Prospects for The Indonesian-Timorese Commission of Truth and Friendship

Michael Roston

INTRODUCTION

The tortured history of the peoples of the Democratic Republic of Timor-Leste is widely recognized. The Indonesian occupation of then-Portuguese Timor quickly became a cause celebre in the international human rights movement, and for good reasons. Yet the scope of the crimes against the Timorese people on the part of Indonesian military forces were only partially grasped by the time of the spasm of violence that accompanied the 1999 referendum that resulted in Timor-Leste's independence. The Timorese people have long sought a sense of accountability in order to bring closure to these events, and subsequently move into the future.

The nature of that accountability has taken a few forms, including initiatives sponsored by the United Nations within Timor-Leste, and those carried out within Indonesia according to its internal law. But the process has been difficult. The trials in Indonesia for perpetrators of the 1999 crimes in particular have resulted in unsatisfactory outcomes that have lacked

credibility. Moreover, efforts to achieve justice and accountability within Timor-Leste, sponsored by the UN, have failed in large part because of Indonesian unwillingness to cooperate with internationally sponsored investigations. Almost a full five years after the violence of 1999, with the UN mission in Timor-Leste coming to a close and complete sovereignty essentially conferred upon the Timorese people, the question of accountability remains unresolved.

From the perspective of powerful forces within the international community, the failure to resolve questions of justice undermines respect for human rights, as well as notions of global order promoted by parties to the United Nations, especially members of the UN Security Council. But at the same time, the Timorese and Indonesian leaderships were both troubled by the damage that the justice and accountability question could do to bilateral relations. If the Timorese were endlessly seeking prosecution of individuals within Indonesia, Indonesian leaders would feel that their smaller neighbor was constantly

challenging the sovereignty of their nation. At the same time, the Timorese felt that they could accomplish little beyond the symbolic, as the Indonesians were unlikely to cooperate with their demands for justice and accountability in a way that would ever truly satisfy the Timorese people, or the international community.

The dilemma posed by this problem finally led Indonesian and Timorese actors to come to an agreement in December 2004 to establish a Commission of Truth and Friendship (CTF),¹ the world's first bilateral truth commission. The CTF was established with the commitment of the governments "to resolve residual problems of the past,"² and with the objective of establishing "the conclusive truth in regard to the events prior to and immediately after the popular consultation in 1999, with a view to further promoting reconciliation and friendship, and ensuring the non-recurrence of similar events."³ The CTF is to work under the principle that it "will not lead to prosecution,"⁴ but instead has the mandate to "reveal the factual truth of

the nature, causes, and the extent" of rights violations, "issue a report... establishing the shared historical record" of 1999's events, and "devise ways and means as well as recommend appropriate measures to heal the wounds of the past."⁵ Controversially, these ways and means include the ability to recommend amnesty for those who cooperate. The CTF will work for one year (until August 2006), with the possibility of a one-year extension of its mandate.⁶

As CTF's mandate was announced, it rapidly was pulled into a debate over what kind of justice and accountability was legitimate for Indonesia. On the one hand, critics of the CTF have warned that it would become a "chamber of impunity," for Indonesian war criminals.⁷ On the other hand, advocates of the CTF have explained that "East Timor has recognized the futility of pursuing perpetrators outside its jurisdiction... For foreigners to reject this judgment would be to start a new wave of judicial colonialism."⁸ The UN Security Council, considering the recommendations of a Commission of Experts (CoE) to Review the Prosecution of Serious Violations of Human Rights in Timor-Leste (then East Timor) in 1999 established by Secretary-General Kofi Annan, has this

¹ The CTF's name has often misidentified. It is frequently referred to as the "Commission for Truth and Friendship," "The Commission on Truth and Friendship," or the "Truth and Friendship Commission." This paper will use the version found in the official terms of reference posed at the CTF's official website. See *Terms of Reference for The Commission of Truth and Friendship Established by The Republic of Indonesia and The Democratic Republic of Timor-Leste*. 8 March 2005, available at http://www.ctf-ri-tl.org/terms_of_reference/?babonmultimedia=e1bc712e81d13db9e625ff9eecd927fc

² *Ibid*, Section 7.

³ *Ibid*, Section 12.

⁴ *Ibid*, Section 13(c).

⁵ *Ibid*, Section 14.

⁶ *Ibid* Section 15.

⁷ Interview with Rafendi Djamin, coordinator of the Human Rights Working Group in Indonesia. Ridwan Max Sijabat. "East Timor Cases Under International Spotlight Again," *Jakarta Post*, 18 May 2005.

⁸ Ramesh Thakur. "East Timor: When Peace and Justice Collide," *International Herald Tribune*. 31 August 2005.

debate on its agenda. At some level, the UNSC's decision on whether or not to confer legitimacy on the CTF may be the last word on whether its findings will become the basis for truth, reconciliation, accountability, and ultimately justice for Timor-Leste.

While the Security Council evaluates whether or not CTF is legitimate, it should ask an additional question: will the CTF accomplish the goal of reinforcing or even establishing the foundation of bilateral ties between Indonesia and Timor-Leste? Whether or not the CTF is capable of achieving its primary objective, in addition to concerns with its viability as an institution for achieving accountability, is important to assessing whether or not it is an initiative worth endorsing.

This paper presents two key findings. It argues first that it is difficult to anticipate whether or not the Security Council will approve the mandate of the CTF, and rule its work to be legitimate. The work of many truth commissions before this one have had a variety of outcomes and results, both intended and unpredictable, and the international community's response to these commissions has varied widely.

Second, this paper argues that the Timorese and Indonesian leaderships should not count on the CTF to smooth out difficulties in their relationship. While the highest levels of government in both country have seen the CTF as a relatively non-controversial body that will not amplify other problems within their relationship, the institution has shown itself to be one that can expose raw nerves that

imperil bilateral ties. Moreover, it is naïve to believe that other disputes in the relationship will be any easier to resolve if CTF resolves justice questions between Indonesia and Timor-Leste. Goodwill built in one sector of the relationship may not be transferred to others, and may not even emerge so much if other complicated issues continue to rear their heads.

This paper will first explore the background of efforts to achieve accountability for the crimes of Indonesia in Timor-Leste that have preceded CTF. Next, it will put the CTF in context by exploring the motivations for its establishment. In the following section, it will consider criticisms of the institution, present these against the backdrop of issues raised by a few key truth commissions that preceded it, and look at what is already known about the international reaction to CTF. Finally, it will analyze the claims that CTF will improve bilateral relations in light of these previous sections.

JUSTICE, ACCOUNTABILITY, AND RECONCILIATION IN INDONESIA AND TIMOR-LESTE

The question of transitional justice was rapidly raised in the Timor-Indonesia setting after the sad events of 1999. The United Nations rapidly established an International Commission of Inquiry on East Timor. This commission in its January 2000 report quickly declared the need for the establishment of two bodies: an independent, international group to investigate the 1999 violence and make recommendations relevant to reparations and prosecutions; and, an international human

rights tribunal to try and sentence those accused by said body. The need for these bodies was reasoned both on the basis of the requirement that the Timorese people find justice in order to achieve reconciliation, and also because the events of 1999 violated Security Council decisions and agreements reached between the UN and the Indonesian government.⁹ The call for the establishment of these bodies coincided with a growing interest within Indonesia for the creations of institutions that would justice and accountability for the events of the past more broadly.

To deal with the crimes of 1999, bodies were established within both Indonesia and Timor-Leste. It would be an understatement to say that all of these institutions have received considerable criticism from states, international organizations, and civil society. This section will briefly review the bodies that were established in each country, and discuss assessments of the effectiveness of these organizations. It will look first at Indonesia's Ad Hoc Human Rights Court for East Timor, and then turn to Timor-Leste's serious crimes process and the Commission for Reception, Truth, and Reconciliation.

Indonesia

Rapidly after Timor-Leste's infrastructure was razed by Indonesia's military and the militias they sponsored, institutions within the Republic of Indonesia turned

their attention to developing an account of the events. The National Human Rights Commission of Indonesia, known by its Indonesian acronym *Komnas HAM*, created a commission to look into these events at the end of September 1999. By 31 January 2000, the body, KPP-HAM, had issued a report that found evidence of gross human rights violations, and that crimes against humanity had been committed from April to September 1999 in Timor-Leste.¹⁰ The report identified the perpetrators as the Indonesian military and police in the province, and the militias they had trained, with command responsibility ultimately implicating senior military leadership. The report named 33 people as specifically responsible, and when *Komnas HAM* forwarded the report to the Attorney General of Indonesia, and it recommended prosecution of those individuals and additional investigation of the human rights violations in Timor-Leste.

The Attorney General's office received the report, and upon evaluating its contents, controversially called only for investigations of a limited set of incidents. Ultimately only 22 individuals were named as suspects by October 2000, and some of the most senior Indonesian leadership, such as former General and later presidential candidate Wiranto, were notably excluded from the indictments.¹¹ The Attorney General's indictments were

⁹Catherine Jenkins, "A Truth Commission for East Timor: Lessons from South Africa?" *Journal of Conflict and Security Law* 7, no. 2. (2002): 234-235.

¹⁰Suzanna Linton. "Unravelling the First Three Trials at Indonesia's AdHoc Court for Human Rights Violations in East Timor," in *Leiden Journal of International Law* 17 (2004): 306-307.

¹¹*Ibid*, 307-308

incorporated into the work of the Ad Hoc Court for Human Rights Violations in East Timor ('Ad Hoc Court'), which due to many delays was not established until April 2001, and did not begin its work until February 2002.

Ultimately, the Ad Hoc Court must be identified as a failure. Of the 18 individuals it ultimately prosecuted, all "were acquitted either at trial or on appeal except for one, Eurico Guterres [the militia leader], whose appeal has yet to be heard. None of the accused was detained pending trial or after conviction, and only one of them has served a total of 112 days in prison before he was released."¹² Prior to the acquittals of most on appeal, sentences for those found guilty of crimes were unusually lenient, "the result of judges' balancing of countervailing pressures to convict and to acquit."¹³

These judicial outcomes from the Ad Hoc Court, lacking sufficient credibility to satisfy international calls for justice and accountability, resulted from a number of causes. During the proceedings of the court itself, Indonesian soldiers created a hostile atmosphere that made many judges concerned for their security.¹⁴ In addition to this atmosphere of intimidation, the

prosecutors leading the cases against those indicted were "neither adequately prepared nor knowledgeable enough to prosecute complex crimes against humanity cases."¹⁵ Specifically, the prosecutors failed to acquire or present evidence sufficient to make the cases they were charged with, employed flawed prosecutorial strategies, and received too little political impetus from their superiors in the AG's office to improve their practice in the courtroom.¹⁶

Indonesia was largely motivated to initiate the Ad Hoc Court process in order to prevent the establishment of an international tribunal to prosecute those responsible for Timor-Leste's suffering in 1999.¹⁷ Yet in the aftermath of the Ad Hoc Court's inability to prosecute any of the perpetrators it did actually confront legally, calls for the utilization of international legal machinery have mounted. The UN Secretary-General's Commission of Experts has called for the establishment of an ad hoc international criminal tribunal, comparable to those prosecuting international crimes that occurred in the former Yugoslavia or Rwanda.¹⁸

Timor-Leste

This section will discuss two institutions that have been erected in Timor-Leste to deal with transitional justice, accountability, and reconciliation. It will

¹²Report to the Secretary-General of the Commission of Experts to Review the Prosecution of Serious Violations of Human Rights in Timor-Leste (then East Timor) in 1999, 26 May 2005, 42. ('CoE report')

¹³Open Society Justice Initiative and Coalition for International Justice. *Unfulfilled Promises: Achieving Justice for Crimes Against Humanity*, November 2004, 26-27. ('OSI/CIJ report')

¹⁴CoE report, 79.

¹⁵*Ibid.*

¹⁶David Cohen. *Intended to Fail: The Trials Before the Ad Hoc Human Rights Court in Jakarta*. International Center for Transitional Justice, August 2003, 14-15.

¹⁷OSI/CIJ report, 19.

¹⁸CoE report, . 8.

first look at the UN's serious crimes process, and then turn to the truth commission established specifically for Timor-Leste, which is distinct from the topic of this paper – the CTF.

Serious Crimes Process

The serious crimes process in Timor-Leste was established first by the UN Transitional Authority in East Timor (UNTAET), and post-independence, is under the authority of the Timorese General Prosecutor's office. The process is made up of "Special Panels with the expertise to" hear cases dealing with "serious criminal offences", namely genocide, war crimes, crimes against humanity, murder, sexual offences and torture," which are brought to it by a group of prosecutors called the "Serious Crime Unit" (SCU)¹⁹ These institutions were composed primarily of international staff, with both judges and investigative staff of Timorese origin working alongside them as part of a capacity building exercise. UN Security Council resolutions in 2004 placed important constraints on the work of the serious crimes process, notably that it should conclude its investigations in November 2004, and that all prosecutions by the SCU should be concluded in May 2005.

The SCU's pace of work has been much more intensive than that of Indonesia's Ad Hoc Court. Since 2000, 95 indictments were filed, implicating 391 individuals. It is notable that 339 of the accused are beyond Timor-Leste's jurisdic-

tion, and therefore cannot be tried because Indonesia has refused to cooperate with the serious crimes process.²⁰ The Special Panel's work has nevertheless generated 55 trials, with 84 convictions, 24 guilty pleas, 4 acquittals, and 13 dismissals by the court or prosecutorial withdrawals.²¹ Prior to the expiry of the mandate of the Special Panels in May 2005, 285 arrest warrants were also granted, laying the groundwork for continued serious crimes prosecutions within the Timorese District Courts, outside of a UN-governed framework.²² However, continuing the work of the serious crimes process without international administration might go beyond the institutional capacity and financial resources of the Timorese legal system.

To worry about the future prospects of the serious crimes process in Timor-Leste is not to paint a rosy picture of the work that was conducted for five years under UN leadership. The prosecutorial strategy of the SCU has been criticized for being unfocused.²³ Particularly, it concentrated too much on the crimes of 1999 when it had a mandate to prosecute crimes for the entirety of the Indonesian occupation.²⁴ Additionally, many of the indicted "have been low-level perpetrators whose offenses fall far short of the threshold for crimes against humanity...such crimes as individual murders and rapes can be prosecuted even without a showing that they are linked to a broader pattern of

²⁰ *Ibid*, 26-27.

²¹ *Ibid*, 32.

²² *Ibid*.

²³ *Ibid*, 22.

²⁴ OSI/CIJ report, 36.

¹⁹ CoE report, 18-19.

widespread or systematic attacks."²⁵ It also was unable to adequately prosecute crimes like rape that had a disparate impact on women.²⁶

Notably, and boding poorly for the future of the serious crimes process, the Prosecutor General's office rapidly intervened in the issuing of warrants after the transfer of sovereignty to the newly independent Timor-Leste. The result has been that warrants are no longer transmitted to Interpol, making even more remote the prospect of ever prosecuting the 339 accused who are shielded by Indonesia.²⁷ This action had followed on previous moves of both the government of Timor-Leste and the UN to disavow the SCU's indictment of the Indonesian General Wiranto.²⁸ These developments demonstrate that the infection of the serious crimes process by political judgments that emerged long ago has been sustained in its transfer to Timorese control. Beyond the variety of local capacity problems, it is therefore difficult to have any confidence in process being having an outcome that is positive for justice and accountability.

CAVR

Timor-Leste's Commission for Reception, Truth and Reconciliation is known by its Portuguese acronym, CAVR. It was proposed by Timorese independence

leaders, and established by UNTAET in 2001, largely patterned after the South African Truth and Reconciliation Commission.²⁹

However, the scope of CAVR's work is considerably different from that of previous truth commissions. In addition to taking thousands of testimonies consistent with its task of "inquiring into human rights violations that have taken place in the context of the political conflicts in East Timor," including via public hearings, CAVR has a unique task in the world of truth commissions. It has among its responsibilities the reincorporation or "reception" into Timor-Leste's society of refugees living in West Timor. To that end, CAVR includes a Community Reconciliation Process that returned refugees and militia members can apply for. Because CAVR is set to work alongside the serious crimes process, amnesties can only be granted within this Community Reconciliation Process, and then only for minor offenses.³⁰

While studies of transitional justice in the Timorese setting reference CAVR, and the CoE even uses it frequently as the metric against which CTF is compared, the institution's body of work has not been analyzed in a manner comparable to that of the serious crimes process or the Ad Hoc Court. Some reports have indicated that the results of its reconciliation process have been uneven.³¹ Additionally, dysfunction in the serious crimes process created

²⁵*Ibid.*, 37.

²⁶Megan Hirst and Howard Varney. *Justice Abandoned: An Assessment of the Serious Crimes Process in East Timor*. International Center for Transitional Justice. June 2005, 19.

²⁷CoE report, 23-25.

²⁸Hirst and Varney, 25.

²⁹Jenkins, 238.

³⁰*Ibid.*, 245.

³¹OSI/CIJ report, 53.

some resentment of CAVR because participants in community reconciliation were forced to account for their actions more than those who had committed crimes against humanity.³² But a thoroughgoing analysis of its reconciliation process or the committee's truth-gathering has not yet occurred

Perhaps it would be unreasonable to expect any complete analysis of CAVR given that its report was not completed until 31 October 2005. But the release of the CAVR report itself has sparked controversy. The report was forwarded to President Xanana Gusmão, who determined that its recommendations "could be used to manipulate our people's state of mind... they are realistically very ambitious," and "the commission's 'grandiose idealism' went beyond 'conventional political boundaries.'"³³ Subsequently, the Timorese president declared his intention to not publish the report's findings, given that the "truth" it reported on was already known by the Timorese people. More recently, he has clarified his position, stating that the Timorese government "must disseminate it in the proper way.... At the end of January I will present the report to the secretary general in New York and will stop in Tokyo on my return to request financial assistance for a series of workshops aimed at disseminating and socializing it in 2006."³⁴

³² Hirst and Varney, 14-15.

³³ *Agence France Presse*. "E.Timor Leader Criticized Over Rights Report," 30 November 2005.

³⁴ Jeff Kingston. "The Search For Truth Divides East Timor," *International Herald Tribune*, 21 December 2005.

Gusmão had been criticized for trying to protect relations between Timor-Leste and Indonesia, as well as western donors who the CAVR report criticizes for supporting or not opposing Indonesia's invasion, such as the United States and Australia. Meanwhile, the CAVR's president, Aniceto Guterres, was quoted as stating that "the most important thing is that the report returns to all East Timorese. But CAVR itself is not insisting it."³⁵

This situation continues to develop, and its resolution is not readily in sight. However, when the few details that have emerged about the CAVR controversy are considered, it appears that the commission's findings run contrary to the conciliatory approach of the CTF. In reportedly calling for sustaining the serious crimes process, establishing an international tribunal if necessary, and using the CTF to explore possibilities of further criminal trials,³⁶ CAVR is promoting a direction that the CTF has tried to move away from.

THE CTF IN CONTEXT

Rather than resolving the many problems of the various transitional justice efforts that were conducted within Indonesia and Timor-Leste, the two sides

³⁵ Sonny Inbaraj. "East Timor: Fear of Losing US Aid Shelves Call for Reparations," *Inter Press Service*, 10 December 2005.

³⁶ John McBeth. "Juggling Pragmatic Politics With Bloody Past: Commission For Reception, Truth and Reconciliation Reports A Bloody History But Is Ambiguous About The Role of The US and Australia During Indonesia's 24-Year Rule Of East Timor," *Straits Times*, 19 December 2005.

moved toward an alternative—the Commission of Truth and Friendship (CTF). This paper will not concern itself with an exhaustive recitation of the events that have occurred in the year since CTF was formally initiated. However, the following

timeline is provided as a summarized reference regarding what has occurred in the time since the Presidents of the two states announced that they would initiate this commission.

The Indonesia-Timor-Leste Commission of Truth and Friendship: Timeline of Events

Event	Date
Indonesia and Timor-Leste agree to establish the CTF	12 December 2004
Presidents and Foreign Ministers meet in Jakarta to negotiate the terms of reference of the CTF	25 January 2005
Secretary-General of the UN appoints Commission of Experts (CoE) to Review the Prosecution of Serious Violations of Human Rights in Timor-Leste (then East Timor) in 1999	18 February 2005
Presidents sign the terms of reference for the CTF in Jakarta	9 March 2005
UN Security Council adopts Resolution 1599, which identifies CTF as the excellent communication and good will that have characterized relations, but also "Reaffirms the need for credible accountability," and encourages the CTF to consider the CoE's recommendations to attain that goal.	28 April 2005
CoE visits Jakarta and meets with various Indonesian officials	18-20 May 2005
CoE submits its report to the Office of the United Nations High Commissioner for Human Rights, including criticisms of CTF and recommendation that it not be funded by the international community	26 May 2005
UN Secretary-General forwards the CoE's report to the UN Security Council President	24 June 2005
CoE report is published for general consumption	15 July 2005
Timor-Leste's Ambassador meets with the UN Security Council to discuss the CTF and the work of the CoE	27 July 2005
CTF's members are appointed	1 August 2005
CTF conducts its first meeting in Bali, mostly concerning procedural issues	4 August 2005
Security Council requests recommendations on the CoE report from the Secretary-General	28 September 2005
CTF announces that it is not in need of foreign funding, but may seek it after its first six months of operations	10 October 2005
CTF requests interviews with TNI members	11 October 2005
Timor-Leste's foreign minister reportedly threatens withdrawal from CTF over a border dispute with Indonesia.	15 October 2005?
Timor-Leste's prime minister confirms that withdrawal from CTF is an option if border disputes continue.	28 October 2005
Commissioners announce plans to begin questioning subjects in January until the end of the fact-finding period in June, including examining the role of General Wiranto in 1999's violence. They also announces that work already completed included reviewing the work of KPP-HAM and the Ad Hoc Court, as well as interviewing participants in both processes.	16 December 2005

Motivations Underlying The Creation of CTF

Government officials from Indonesia and Timor-Leste have both made a wide variety of public statements about the genesis of the CTF, and its activities to

date. By analyzing these statements, as well as the introductory articles of the CTF's Terms of Reference (TOR), it is possible to gain an understanding of what drove these two states to undertake this novel, but controversial initiative. Ana-

lyzing the stated motivations for the CTF also provides an insight into some of the differences of opinion evident in the two parties' positions. These divergences may help identify some of the outcomes on the bilateral relationship between Indonesia and Timor-Leste of the CTF's activities.

Indonesia's public statements have not done very much to indicate the underlying motivations for initiating CTF. Because most of the perpetrators of the crimes of 1999 are to be found within Indonesia's jurisdiction, perhaps one should not be surprised that its statements on CTF have been conservatively choreographed, and stuck closely to pre-defined scripts. Knowing that the reactions against CTF are driven more by disdain with Indonesia's treatment of soldiers and militia members involved in the Timorese crimes, and less with the Timorese calculation of *realpolitik* that drove it to accept the proposed commission, Indonesia does not wish to give any further encouragement to its critics.

Subsequently, Indonesia has made statements that generally characterize CTF as a *fait accompli*. For instance, when Indonesian and Timorese officials began negotiating CTF's TOR, Indonesia's Foreign Minister Hasan Wirayudha explained that "We had no other choice as the agreement occurred at the highest level between the presidents, the vice-president and ministers to continue with the previously agreed CTF concept."³⁷ Therefore, the Foreign

Minister's remark that the commission is "a unique opportunity for our two countries...to bring both truth and justice into the light of day, thereby consolidating our friendship,"³⁸ is essentially the extent of what Indonesian officials are willing to say in any public forum on why Jakarta has chosen to cooperate with Timor-Leste on this mechanism for truth telling.

While Indonesia's public utterances on CTF are limited, an examination of the TOR offers a clearer perspective on why it has engaged in the process. While the second paragraph of the agreement refers to a "sometimes painful chapter of their shared past," Timorese concerns with justice are far in the background of the TOR. Instead, the fifth paragraph makes reference to Indonesia's "tremendous efforts to preserve the unity of the country without hindering the goals of reform and democratization." Later, in paragraph eight, the TOR refers to the the events of 1999 as merely "important residual issues...the reported violations of human rights in 1999 in Timor-Leste." With this order of priorities, it cannot be questioned that Indonesia's goal of participating in the CTF is to dampen the amount of attention paid to its previous failings at holding members of its armed forces and their militia allies accountable for the events of 1999. For Indonesia's leadership, CTF

³⁷Muhammad Atqa, "Indonesia, East Timor to form 'truth and friendship' commission," in *Detikcom via BBC Monitoring*, 20 January 2005.

³⁸Opening Remarks by Hassan Wirajuda Minister for Foreign Affairs Republic of Indonesia at The Third Meeting of The Indonesia - Timor Leste Joint Ministerial Commission (JMC) On Bilateral Cooperation, 8 July 2005. http://www.dfa-deplu.go.id/?hotnews_id=435

represents an effort to "make up and move on" from differences it may have had with Timor-Leste on the justice question, especially with an eye to codifying the excuse that there will be threats to Indonesia's transition to democracy if any alternative path is pursued.

The concept of the truth commission may have been drawn more from Timor-Leste's initiative than Indonesia's. In 2002, Foreign Minister José Ramos-Horta proposed a joint truth commission "that would have one primary duty: to name those individuals most responsible for the violence. The naming of names would be the sole 'remedy' or punishment, and the commission would recommend no other."³⁹ However, the implementation of the CTF in its TOR shows that it "will emphasize institutional responsibilities."⁴⁰ Clearly, as the CTF was developed bilaterally, Timor-Leste has further compromised its original intentions for a truth commission.

Perhaps because these compromises offered them the less beneficial end of the bargain, the Timorese have been more vocal in their statements. The Timorese leadership has sought to cultivate an attitude of magnanimity, promoting a philosophy with CTF that seems to suggest that the country must "forgive but not forget." Timorese statements position it as a small state that has been wronged by a larger neighbor, yet it is now willing to move on for the good of both countries. On this basis, Timorese declarations on

CTF are often seen to vocally emphasize the upside of the policy. Therefore an official in Dili explained that the Timorese hope to make other countries "aware that this is the best path to mete out justice."⁴¹ President Gusmão also states hopefully that "We need to put some trust in humankind, in society, in the state, in the country, because without this, we will live in continued distrust."⁴² Ramos-Horta has sounded off even more optimistically by asking "Where else have two nations who have shared a turbulent past been bold enough to face the future in such a way?"⁴³

Belying all of the official talk of Timorese leaders of moving beyond distrust and facing the future is an acknowledgment of the need for foreign policy realism. These same Timorese officials have made it known that their acceptance of the CTF concept is driven largely by a feeling that no other options are available for Timor-Leste five years after its liberation from Indonesia. Ramos-Horta in an August interview, for instance, insisted that CTF would allow "at least the victims of violence in '99 [to] feel that there has been some justice," and hoped that because CTF "will not lead to persecution, [the guilty] might step forward and be honest, cooperate fully by telling

⁴¹ "East Timor: Gusmão To Discuss Atrocities 'Truth Commission' In Jakarta," in *Lusa News Service*, 25 January 2005.

⁴² "Indonesia, East Timor Set Up Truth Commission," in *Kyodo News Service*, 9 March 2005.

⁴³ "Indonesia And East Timor Open Truth Commission On Atrocities," *Agence France Presse*, 4 August 2005.

³⁹ OSI/CIJ report, 53.

⁴⁰ Article 13(c), TOR.

the truth on their actions."⁴⁴ However, Ramos-Horta followed these statements by explaining that CTF was preferred because "the prosecutorial system didn't work in Indonesia, does not work, is not working in East Timor."⁴⁵ On this point he elsewhere added that "the United Nations failed to establish a strong judicial system capable of handling serious crimes"⁴⁶ in Timor-Leste. Moreover, he explained that any Timorese hopes for justice are impacted by the fact that "The Security Council of the UN will not agree to the establishment of an international tribunal the end result will be the same. Indonesia would not cooperate, so the tribunal will be sitting empty somewhere in the Hague without anyone to be tried and maybe repeating (what) was done in East Timor."⁴⁷

As Ramos-Horta added that "All I can say is that this is our last chance," at some sense of justice for Timor-Leste, it should be evident that Timor-Leste is both criticizing the international community for an unwillingness to support stronger measures for justice and accountability, and acknowledging that it cannot do much more than CTF on its own. Whether or not the Timorese leadership likes CTF, it sees the effort as the only real opportunity to initiate a process that will create

some sort of record of accountability for the crimes of 1999.

In exploring the motivations for establishing the CTF, it can therefore be summarized that while Indonesia is expressing in the commission the limits of its willingness for accountability, Timor-Leste's posture is based more in its capabilities for the same outcome. The two states are therefore not approaching CTF with the same objectives and interests in mind. Rather, a set of divergent motivations are readily identifiable.

Reactions To The CTF

With the CTF put into the full context of preceding institutions and the political forces that have driven it into action, it is necessary to now discuss how the institution will fare. A major question that must be evaluated is whether or not CTF will be given an opportunity to accomplish the goals that Indonesia and Timor-Leste have set for it: establishing a final say on the "truth," and helping the two countries move beyond the conflict in their past. Ultimately, if criticisms of CTF are heeded, the work it does will not be considered credible by key international decision-makers, and the commission may ultimately be left behind in the wake of other justice and accountability activities sponsored by the United Nations.

To assess whether the international community will accept the CTF's work, it is first necessary to discuss the various criticisms of the institutions that have been lodged by the UN Commission of Experts as well as various components of interna-

⁴⁴"East Timor: Truth Commission will not Prosecute Guilty," in *ABC Radio Australia*, 8 August 2005.

⁴⁵*Ibid.*

⁴⁶Seth Mydans, "East Timor Atrocities Will Go Unpunished," in *International Herald Tribune*, 11 May 2005.

⁴⁷*ABC Radio Australia, Ibid.*

tional civil society. Then, it will present the official response of the UN Security Council and governments concerned with the Indonesia-Timor-Leste bilateral relationship. Finally, a brief analysis of the international reactions will be offered.

Criticism of the CTF

Almost as soon as the CTF was established, it began to receive serious criticism from a wide variety of actors in international civil society, from the most active organizations in the international human rights movement based in the United States and Western Europe, to organizations focused specifically on Indonesian and Timorese affairs in the western world and inside Indonesia, as well as from Timorese groups monitoring the transitional justice process. Upon the publication of the report of the UN Secretary-General's Commission of Experts (CoE) on the 1999 crimes in Timor-Leste, a number of these criticisms were retained and ultimately forwarded to the UN Security Council. Other charges leveled against the CTF were not incorporated in the CoE's report. This section will briefly review the 12 categories of criticism against CTF that have come from international civil society and the CoE.

First, the CoE was troubled that the CTF does "not distinguish between categories of alleged perpetrators."⁴⁸ Therefore, those who perpetrated crimes against humanity will be treated by the CTF in the same manner as those who may have

perpetrated less serious violations. Second, CTF lacks "specific mechanisms to address *serious* human rights violations or allegations of *serious crimes* outside the CTF process."⁴⁹ The concern on this count is particularly with the lack any procedure to refer these allegations to any other institutions that might consider prosecution of such crimes.

Third, the most vocal criticism of CTF has been with the provision that calls upon it to "recommend amnesty for those...who cooperate fully in revealing the truth."⁵⁰ Critiques of this provision have ranged from muted remarks that it may not be "tenable to empower a bilateral body to grant amnesty for...international crimes,"⁵¹ to more strident warnings. These include concerns that CTF's provisions go "against the internationally recognized standards that for certain crimes blanket amnesties are unlawful,"⁵² and that it will "directly contravene international normative standards and the rule of law, which lie at the heart of the mission of the United Nations."⁵³ The strong rhetoric that has accompanied this criticism and the considerable attention to it within the CoE report shows that serious international

⁴⁹ At paragraph 335, *Ibid*, 82.

⁵⁰ Section 14(a)(ii)(c)(i), TOR

⁵¹ At paragraph 337, CoE report, 82.

⁵² Leonie von Braun, "Trading Justice for Friendship – An Analysis of the Terms of Reference of the Commission of Truth and Friendship for Indonesia and East Timor," *Watch Indonesia! Information and Analysis*, 29 March 2005.

⁵³ Joint letter to UN Permanent Representatives – Concern over the delay in appointing an independent Commission of Experts, 22 August 2005. (e.g. "the Corkey Letter").

⁴⁸ At paragraph 333. CoE report, 81.

concern exists with the CTF primarily because of the amnesty provisions of its TOR. Indeed, some of this rhetoric have been so boisterous as to suggest that CTF may grant amnesties without any additional action by the Indonesian or Timorese governments, in place of the simple recommendation it is actually capable of offering.

Fourth, critics of CTF have warned that because its TOR prefers methods "rather than the prosecutorial process" for "true justice,"⁵⁴ it creates an "apparent exclusion of further justice processes."⁵⁵ Indonesian and Timorese NGOs have also warned that the CTF contributes to "current impunity by denying justice"⁵⁶. Similarly, concern has been expressed that CTF will "obfuscate the truth and eliminate the possibility of assigning responsibility for serious crimes."⁵⁷ A fifth critique centers on CTF provisions that allow it access to materials and witnesses who have participated in existing frameworks for transitional justice in Indonesia and Timor-Leste. Concern has been expressed that these provisions "may compromise future adjudication of serious human rights violations."⁵⁸ For instance, some who contri-

buted to the investigations of the UN's Serious Crimes Unit "could be alarmed that their information will now be turned over to the Indonesian government,"⁵⁹ and that such access to records may pose "serious dangers for victims and witnesses who provided confidential information...at considerable personal risk."⁶⁰

Sixth, the TOR's definition of the role played by the foreign ministers of the two countries who "shall observe the work of the Commission and act in an advisory role,"⁶¹ is seen as needing clarification by the CoE due to the CTF's mandate to work independently.⁶² Others are similarly concerned that "This arrangement raises the concern that CTF will be...lacking the necessary independence to conduct impartial and thorough work."⁶³ Seventh, some criticisms exists that there is not sufficient public support, particularly in Timor-Leste, for the work of CTF to appear legitimate.⁶⁴ Eighth, CTF lacks any framework for the implementation of the right to reparation for victims of crimes that satisfies international standards.⁶⁵ Ninth, elements of the CTF's TOR and its execution may violate Timor-Leste's constitution. First, the Timorese president has not sought the Timorese Parliament's authorization of the TOR, which is a treaty over which the

⁵⁴Section 10, TOR

⁵⁵At paragraph 342, CoE report, 83.

⁵⁶Joint Statement - Non Government Organizations of Timor Leste and Indonesia: "Political deals" were made over the Establishment of the commission of Truth and Friendship (CTF)," 18 March 2005. (e.g., "the HRWG letter")

⁵⁷International Federation for East Timor. *IFET sent the following letter yesterday to the UN Commission of Experts which is examining justice for East Timor*, 20 April 2005.

⁵⁸At paragraph 346, CoE report, 83-84.

⁵⁹Von Braun, *Ibid.*

⁶⁰Corkey letter, *Ibid.*

⁶¹Section 24, TOR.

⁶²At paragraph 347, CoE report, 84.

⁶³Von Braun, *Ibid.*

⁶⁴At paragraph 348. CoE report, 84.

⁶⁵At paragraph 352. *Ibid.*

Parliament has authority.⁶⁶ Additionally, the Timorese constitution may oblige the government to prosecute any serious crimes against humanity or serious human rights violations. Therefore, any amnesty granted under CTF could run counter to Timorese constitutional obligations.⁶⁷

Tenth, related to amnesty, there is concern that the CTF could "put an end to further investigation of those guilty of war crimes...the initiative is designed to be the final word on these issues."⁶⁸ In warning that "the CTF mandate implies a political move to put a definite end to all calls for prosecution,"⁶⁹ critics are suggesting that investigations that have yet to be conducted will not ever be prosecutable, and that whatever is contained within the CTF's final report is the only word that can ever be produced on who is accountable for 1999's crimes. Eleventh, some have argued that "the events of 1999 cannot be separated historically and politically from the 24 years of Indonesian occupation."⁷⁰ With a mandate limited to such a narrow timeframe, the CTF may make it difficult to link the crimes of 1999 with those committed throughout the duration of Indonesia's occupation of Timor-Leste.

Finally, while advocates of the CTF might believe that it will "provide not only

both states, but also the rest of the international community, with the necessary tools to understand clearly what went on in 1999,"⁷¹ others believe that it will not contribute much more than has already been uncovered by other institutions, particularly CAVR, involved in transitional justice. In fact, it has been explained that "The mandate of the CTF stays short of what has already been accomplished...it is highly unlikely that the CTF will be able to contribute new findings considering the limited scope of its investigation mandate."⁷²

Neither the Indonesian nor Timorese governments have made any effort to debate these criticisms line-by-line, focusing instead on CTF as though it were a done deal. While the accuracy of these criticisms cannot be fully assessed, understanding them offers an important framework for evaluating how they have shaped the debate over CTF. Some of these claims have been interpreted by key international actors who have been observing the debate over the commission, and their reactions will strongly impact the outcome of CTF's work.

International Reactions to the CTF Controversy

After offering up its criticisms of the CTF terms of reference, which included quite a few recommendations for changes to its procedure, the CoE remarked that it "cannot advise that the international community provide financial and/or advisory

⁶⁶Judicial System Monitoring Program, *The Constitutionality of the Commission of Truth and Friendship*, 18 March 2005.

⁶⁷ *ibid.*

⁶⁸Catholic Institute of International Relations, "East Timor: Truth Commission appointed to settle events of 1999," *CIIR Email News*, 21 March 2005.

⁶⁹Von Braun, *Ibid.*

⁷⁰*ibid.*

⁷¹Quoting President Gusmão in Ivy Susanti and Muninggari Sri Saraswati, "RI, E. Timor seal deal on past atrocities," *The Jakarta Post*, March 10, 2005.

⁷²Von Braun, *Ibid.*

support unless the two Governments reconsider the terms of reference." The Secretary-General forwarded the CoE's report, which was much more extensive, to the Security Council, without any direct statement about his office's opinions on any of the report's contents.

At this stage, the positions of many key actors in the process cannot be fully discerned. Ultimately, the progress of the CTF will depend on the international reaction to these concerns. The CTF has already signaled that it may need funds from the international community to finish out its first year of work.⁷³ Moreover, what the governments of Indonesia and Timor-Leste do with the CTF's recommendations, i.e., whether or not amnesties are granted, may be dictated by their perceptions of international judgments of the legitimacy of the institutions. The reactions of key actors will therefore be considered. At minimum, the following external agents are evaluated to "check the temperature" of international reaction to CTF: the UN Security Council, the United States, Portugal, Australia, and Japan.

UN Security Council (UNSC)

Initially, the UNSC made some guardedly optimistic remarks about the CTF. In a resolution passed in April by the Council, it expressed its acknowledgment that the CTF was an example of "the excellent communication and good will that have characterized relations between

Timor-Leste and Indonesia."⁷⁴ But, this statement fell far short of a full endorsement, as the Council held that "credible accountability for the serious human rights violations committed in East Timor in 1999" was still needed, and that it looked forward to the CoE's assistance to CTF's progress. At some level, the Council's resolution may have communicated that while it supports positive relations between Indonesia and Timor-Leste, it still had concerns with CTF's ability to function as an institution operating legitimately according to international standards.

In the time since the Council passed its resolution, little progress has been evident. On 28 September 2005, the Council's President requested recommendations from the Secretary-General on justice and reconciliation, and instructed it to consider both the CoE's report, and the positions of Indonesia and Timor-Leste.⁷⁵ But some reports also indicate the existence of "discomfort" with the CoE's recommendations and support for the CTF by some UNSC members, especially the Asian governments, whereas other states are concerned that the amnesty provisions set a global precedent for impunity.⁷⁶ Support of CTF's approach may be led by China, which according to Indonesian government spokes-

⁷⁴ Resolution 1599 (2005), Adopted by the Security Council at its 5171st meeting, on 28 April 2005, 2.

⁷⁵ Letter dated 28 September 2005 from the President of the Security Council addressed to the Secretary-General, 1.

⁷⁶ Security Council Report, "Timor-Leste," in *Monthly Forecast – December 2005*. http://www.securitycouncilreport.org/site/c.g1KWLeMTIsG/b.1203343/k.1762/December_2005brTimorLeste.htm

⁷³ *Agence France Presse*, "Indonesia, Timor may seek foreign funds for peace commission," 10 October 2005.

persons, "fully supports the Indonesian government and agrees that the 1999 East Timor human rights issue should be handled and resolved by the Truth and Friendship Commission."⁷⁷ These conflicting impulses have not yet been resolved, and additional action from the UNSC does not appear forthcoming in the short-term.

The United States

The US government has made only one statement about this particular issue in far flung Timor-Leste and Indonesia. But, it may be the case that however much attention actually goes to CTF from American policymakers, they see problems with the approach. The American statement identified CTF as "an important component of the overall effort to achieve accountability and reconciliation."⁷⁸ It also saw CoE as "another key element in this endeavor," and called for coordination between the two bodies. If CTF is a component of accountability, the US may be supportive of some further prosecutorial action on the part of Indonesia and Timor-Leste. However, the US has not issued a public reaction to the CoE's subsequent report.

Portugal

Little public mention of Timor-Leste's original colonial ruler has come up in the context of the CTF. It has been said that

Portugal (alongside the US, UK, and the Netherlands) supported "the idea of a commission of experts and offered to help fund the UN review,"⁷⁹ and subsequent remarks stated "we welcome the important work being carried out by the independent Commission of Experts, appointed by the Secretary-General to review the prosecution of serious human rights violations committed in Timor-Leste in 1999. In this context, we look forward to consider its final recommendations."⁸⁰ Clearly, Portugal supported the oversight role on CTF that CoE played, but it has not addressed CTF directly. Indirectly, Portugal declared its support for a statement made by Luxembourg on behalf of the European Union: "While a Truth and Friendship Commission had been formed, the Union remained concerned at the lack of progress in the fight against impunity, and welcomed the establishment of a Commission of Experts to assess progress made."⁸¹ If Portugal is tasked to develop any positions taken by the EU on Timorese issues, this statement may show

⁷⁹Shawn Donnan. "Jakarta and Dili move to heal wounds," *Financial Times*.

⁷⁷Kompas Cyber Media (via Asia Intelligence Wire), "Chinese president urges internal resolution of East Timor rights abuses," 29 July 2005. <http://www.etan.org/et2005/july/24/27tradl.htm>

⁷⁸Richard Boucher, Spokesman, Department of State. "Press Statement – East Timor and Indonesia Form Commission on Truth and Friendship," 9 March 2005.

⁸⁰Statement by João Salgueiro, Ambassador extraordinary and plenipotentiary and permanent representative of Portugal to the United Nations, to the UN Security Council (Report of the Secretary-General on the United Nations Mission of Support in Timor-Leste), 16 May 2005. <http://www.un.int/portugal/cstimor16052005.htm>

⁸¹A press release, "tangible progress made building timor-leste's democratic institutions, but major challenges remain," security council told – Special Representative Says Land Border Demarcation among Unresolved Issues; Secretary-General's Report Recommends 'Scaled Down' UN Mission until 20 May 2006." SC/8323, 28 February 2005. <http://www.un.org/News/Press/docs/2005/sc8323.doc.htm>

its true colors on the subject. However, no subsequent reaction to the content of CoE's report has been forthcoming.

Japan

Japan considered CTF to be enough of a matter of concern to address it directly. Its interest may be driven by the fact that Japanese national is currently the UN's representative in Timor-Leste, and the Japanese government has made considerable contributions to Timorese reconstruction. An official statement by the Japanese government welcomed the establishment of CTF "to comprehensively clarify the truth of the reported violations of human rights in 1999 in Timor-Leste," and "hopes that the activities of the commission will further promote" reconciliation.⁸² However, it also encouraged cooperation between the CTF and the CoE. In a more detailed earlier statement, a Japanese official spoke more strongly, remarking "We must also address issues concerning serious crimes committed in the past in Timor-Leste, as they have close bearing on the country's future stability and development. We note that the Secretary-General has decided to establish a Commission of Experts in order to face squarely the issue of impunity. For this Commission to function effectively, it will need to have good cooperation from the countries concerned. We strongly hope

that this Commission will maintain a constructive relationship with the Truth and Friendship Commission which the governments of Timor-Leste and Indonesia have agreed to establish."⁸³ Japan's statements on impunity are therefore stronger than those made by the United States, and are more in line with what has been stated by the European Union. However, the subject has only been addressed in the UN context, and did not emerge during Japan's considerable direct contact with Indonesia in the past year, such as during the two countries' annual summit. Subsequent reaction to the CoE's report also has not emerged. Therefore, the depth of Japan's position is not easy to evaluate.

Australia

Neighboring Australia's stake in the CTF issue may or may not be significant, but it has made some public statements on the matter. Notably, it explained to the Commission on Human Rights that it was encouraged by Indonesian-Timorese agreement, "to establish a Truth and Friendship Commission to solve outstanding problems relating to past human rights abuses."⁸⁴

⁸³ Statement by Kenzo Oshima, Permanent Representative of Japan At The Public Meeting of The Security Council On The Situation In Timor-Leste, 28 February 2005. <http://www.mofa.go.jp/announce/speech/un2005/un0502-8.html>

⁸⁴ Sixty first session of the Commission on Human Rights, Geneva, 14 March to 22 April 2005, Item 9: Question of the violation of human rights and fundamental freedoms in any part of the world, country statement delivered by Mike Smith, Permanent Representative, on 24 March 2005. http://www.dfat.gov.au/hr/comm_hr/chr61_item9_2.html

⁸² Statement by the Press Secretary/Director-General for Press and Public Relations, Ministry of Foreign Affairs, on the Establishment of the Commission of Truth and Friendship by Indonesia and Timor-Leste, 14 March 2005. <http://www.mofa.go.jp/announce/announce/2005/3/0314-2.html>

This statement was made rather uncritically, and an answer to a press question posed to Foreign Minister Alexander Downer later in the year offered no particular evolution in the perspective of the Australian government.⁸⁵

No Terminal Direction For International Reaction To The CTF

While criticism of CTF has been heavy, it is not evident that concern with the institution has fully filtered up to governments that will ultimately decide on whether the institution will receive global approval. Some governments like Japan and the European Union have made strong statements against impunity that implicate CTF, and the US has expressed its feelings on the need for accountability. But in the aftermath of the CoE's strong recommendations against supporting CTF, there is no guarantee that these states will lead a movement in the Security Council to overcome concerns, expressed possibly by China and other countries, with interfering in the sovereignty of Indonesia and Timor-Leste.

While the states that promoted the initiation of the work of the CoE may have lent their political support to the Secretary-General's impetus to sustain the push for justice and accountability, their follow-through has not been assured. Ultimately, the UNSC's directive to the Secretary-

General to consider Indonesia and Timor-Leste's positions at the same level as those found in the CoE's report suggests a moderating of positions, and that some sort of compromise will emerge on how far any push for justice and accountability will reach. While the international community may be willing to take a "see no evil" approach to CTF, and let it do its work, any call for sustaining the serious crimes process in Timor-Leste will clearly clash with possibilities of CTF recommending amnesties. If the international community cannot yet resolve this conundrum, this paper will not be able to do so either.

WILL THE CTF IMPROVE INDONESIA-TIMOR-LESTE RELATIONS?

In the previous section, this paper suggested that it is difficult to say whether the CTF will be permitted to accomplish the desired scope of transformation of the Indonesia-Timor-Leste relationship. But a question that needs to be simultaneously assessed is whether or not the CTF, on its own terms, will be able to promote the improvement of relations between the two states that both believe it is capable of accomplishing.

Again, it must be remembered that the CTF is without precedent. No previously existing truth commission has worked on a bilateral basis. It is therefore not an easy task to theorize on the outcome that the CTF will have on the bilateral relationship.

⁸⁵Transcript – Minister for Foreign Affairs – Interview ABC – East Timor, 20 October 2005. http://www.foreignminister.gov.au/transcripts/2005/051020_abc.html

One speculation might see little outcome from CTF. It may be tempting to conclude, as some critics of the CAVR approach have, that truth commissions do not deal with fundamental conditions,⁸⁶ and therefore cannot affect bilateral relations between Timor-Leste and Indonesia in any real way. But a question needs to be asked about what CTF is intending to accomplish. While CTF may speak of preventing human rights violations from recurring, and finding ways to broaden Timorese-Indonesian relations, by "promoting friendship and cooperation between governments and peoples of the two countries,"⁸⁷ the importance of government-to-government relations in CTF's work should not be underestimated.

CTF is clearly designed to work out an accommodation between the two governments on justice and accountability issues. The peoples of Timore-Leste are unlikely to come into greater contact with Indonesians as a consequence of CTF's work, and will therefore not build up some pool of goodwill toward their nearest neighbors. Instead, the governments are banking on a reduction in hostility among Indonesian elites toward the Timorese out of concern that many military and potentially civilian leaders from Indonesia could still be involved in trials for the crimes of 1999, or earlier. The Timorese leadership in particular is hoping to engender goodwill from key Indonesian decision-makers by removing the difficulties that accountability for war crimes creates for Jakarta. Stated

more optimistically, the conventional view is that "Academic experts might express distaste for such compromises based in realism. But East Timor's destiny is tied to good relations with its powerful neighbor, and the government believes that the Truth and Friendship Commission will bring closure...."⁸⁸

But it is not entirely evident that this irritant will be fully removed by the CTF process. A number of potential collision points can be identified: the scope of the CTF's work might become too intrusive; attempts at granting amnesties could create new tensions; and, the CTF may itself become a bargaining chip in Timorese-Indonesian relations. Finally, there are problems in the Indonesian-Timorese bilateral relationship that simply cannot be resolved with the results of the CTF's work.

First, disputes might arise in the Indonesian-Timorese relationship if the members of the CTF work too earnestly at the task with which they have been charged. If the commissioners begin to make explorations that go beyond a scope found acceptable by certain powers, especially those whose testimony is being gathered, the commission could provoke a spat between the two countries.

It is remarkable that in all of the criticism that has arisen about the content of the CTF's work, no impeachments of the independence or credentials of the commissioners themselves have been forthcoming. The lack of character assassination may

⁸⁶Jenkins, 250.

⁸⁷Section 13 (d), TOR.

⁸⁸Thakur, *Ibid.*

suggest that these individuals are perceived by critics to be products of civil society who can be expected to follow through on the work they are doing, and produce a version of the "truth" that will in itself be credible, even if that truth is used toward ends that the critics find unacceptable. If these ten commissioners are not merely political appointees, and are unwilling to compromise their questioning to political ends, they could be expected to strain against some of the limitations in the TOR.

For instance, the Indonesian chairman Benyamin Mangkudilaga remarked publicly that, "Our job...is similar to handling two quarrelling people so they can be side-by-side and friendly...The situation is difficult but we are sticking to the agreement" made by Indonesia and Timor-Leste.⁸⁹ While too much should not be read into his remark, Mangkudilaga's comment about the difficulty of CTF's work may belie some discomfort among the commissioners with the strictures of the mandate. Similar remarks on the part of another commissioner, Felicidade Guterres, that "We should not foreclose the possibility of an international tribunal. There has been a lot of disappointment with the failure of (Indonesia's) ad-hoc tribunal," also are suggestive of some straining against the bonds by commissioners.⁹⁰

Until January 2006, the commission mostly reviewed the reports of KPP-HAM and the work of the Ad Hoc Court.⁹¹ Therefore, none of the aforementioned concerns had opportunities to manifest. But as the CTF holds talks with Indonesian military leadership and former members of the pro-Indonesia militias, hostility might result from the asking of certain questions, and the concern that certain details could be revealed by the CTF in its final report. Targets of the CTF's fact-finding could object to the notion that their innocence could in any way be questioned by the commission. This possibility was already evident in the remarks of the former governor of East Timor, Abilio Jose Osorio Soares who "cautioned the Indonesia-East Timor Truth and Friendship Commission (KKP) to respect the decisions of legal institutions in Indonesia," shortly after its first meeting.⁹²

The reactions of some persons to the CTF's stimuli could result in interventions in the commission's work on the part of one state's foreign minister with the other, and as either side works out what stance it must take, dispute could result. If it is true, as was suggested earlier, that the two sides had differing motivations in establishing the commission, this scenario could be even more complex. With the CTF moving into seeking the participation of individuals such as General Wiranto in its

⁸⁹ *Agence France Presse*, "Indonesia-East Timor Truth Commission Sees Tough Task Ahead," 5 August 2005.

⁹⁰ *Agence France Presse*, "Truth Commission Rules Out New Trials Over Timor Atrocities," 16 December 2005.

⁹¹ Tiarna Siboro, "Commission to Summon Wiranto," *The Jakarta Post*, 17 December 2005.

⁹² *Media Indonesia* (via BBC Worldwide Monitoring). "Ex-Governor of East Timor Queries Indonesia Truth Commission," 15 August 2005.

'fact finding,'⁹³ we may see this idea tested for the first time. Additionally, if the CTF concludes that it needs its mandate to be reviewed for a second year, as the TOR permits, this could provoke a difference of opinion between the two states.

Next, the CTF's recommendations to Indonesia and Timor-Leste could provoke dispute. As the earlier discussion of CAVR proves, the recommendations of truth commissions can be inconvenient for the governments who must in some form or another put their stamp on the work of such a body. And the recommendations of CTF are bound to provoke some sort of dispute because of the controversy that will undoubtedly break out if it recommends amnesties for particular individuals. On the one hand, CTF will need to make judgments about whether or not individuals have cooperated in truth-telling sufficiently to receive amnesties, and such decisions are likely to be fraught with political peril. But if CTF recommends amnesties for individuals who have been implicated by KPP-HAM, the Ad Hoc Court, CAVR, the serious crimes process, and other inquiries into the events of 1999, Indonesia and Timor-Leste are both likely to come under severe international pressure to not grant amnesties.

While Indonesia has shown itself to be more immune to international pressures throughout its dealings with transitional justice processes relating to its actions in Timor-Leste in 1999, the Timorese are unlikely to be so cavalier. If one of the reasons for withholding the CAVR report is due to concern with alienating its major donors, it is likely that the Timorese will

be equally concerned with granting amnesties that those states may condemn, and which could have consequences for Timor-Leste's international standing. If the Timorese and Indonesians are unable to work in parallel on this particular thorny question, any notion of CTF improving bilateral ties will prove to be pure fiction.

It is possible that the CTF will not grant any amnesties, or will not grant them to any major parties to the crimes of 1999. But if such an outcome were to result, the outstanding justice problems posed by the SCU indictments and international calls for accountability will continue to be unresolved in any sort of legal terms. With such a prospect, one must ask why the CTF was established in the first place. In either scenario, a collision is foreseeable.

The question of the granting of amnesties suggests that in a certain regard, the Timorese hold some leverage in the Timorese-Indonesian relationship. While Indonesian hostility to Timor-Leste presents dangers to the small state, Indonesia is also willing to participate in an exercise like CTF because it has concerns about warding off international pressure for justice and accountability. This Indonesian interest does give Timor-Leste a bargaining chip to use in its bilateral relationship. If it considers Indonesian behavior in a particular area unacceptable, the Timorese are capable of threatening to withdraw their participation in and endorsement of CTF. In the few months since the CTF was constituted, this has already happened once. When a dispute flared up on the Timorese-Indonesian land border, the UN's

Timor-Leste representative Sukehiro Hasegawa indicated that Foreign Minister Ramos-Horta threatened to withdraw from CTF if the matter was not promptly resolved by the Indonesian side.⁹⁴ Timorese Prime Minister Mari Alkatiri also reportedly remarked publicly that dissolution of the CTF had to be considered because "The two countries are trying to maintain their friendship. However, people are still provoking them, showing that there is no longer any intent to continue the friendship."⁹⁵

It is not abundantly clear that the matter was resolved purely with the use of this leverage. But other scenarios may arise in which Timor-Leste's government utilizes CTF as a tool to advance its causes where Indonesia is concerned. The Timorese could overuse this tool in bilateral relations, provoking a backlash from the Indonesian side. Or, they may conclude that a withdrawal from the CTF is required under sufficiently serious circumstances. While a resolution of the issue could restore cooperation within the CTF framework, the disruption of its operations would undermine the institution's ability to promote friendship and cooperation. Ultimately, the use of CTF as a diplomatic tool would seem to undermine its function as a vehicle for sustaining cooperative relations.

While this section has until now concentrated on how the CTF could create

new irritants in the Indonesian-Timorese relationship, the bilateral ties of the two states should not be theorized about in a vacuum. Even if the irritant of justice and accountability were removed from the relationship, the presence of other complex issues may do much more to keep the two states uneasy with one another. A brief study of disputes the two have had on their common border ably illustrates the potential for conflict now and in the future.

If the Timorese theory that CTF will ease the concerns of key military and civilian leadership over prosecutions is true, certain problems that have popped up on the border could be resolved. Indonesia's army may be willing to withdraw Battalion 745, one of the units involved in 1999's infamy, from its deployment on the border.⁹⁶ Similarly, Indonesian naval vessels may be less likely to probe Timorese territorial waters.

But while Indonesian misbehavior is certainly a cause of dispute, the real problems on the border may not be nearly as under the control of military decision-makers as they might like, and whether or not the Indonesian military softens toward Timor-Leste's leadership will therefore be immaterial. The Indonesian military claims that it is sincerely working to assure that Timorese militias in West Timor are not agitating and provoking conflict with people in their former home. But the very fact that Indonesian officials

⁹³ Reuters, "Timor Truth Commission Set To Examine Bloodshed," 16 December 2005.

⁹⁴Mark Dodd, "E Timor border at 'flashpoint,'" *The Australian*, 20 October 2005.

⁹⁵Mark Dodd, "Talks over East Timor clashes," *The Australian*, 28 October 2005.

⁹⁶*Ibid.*

⁹⁷Detikcom. "Military Clothing Banned For Civilians In West Timor Border Areas," 23

had to ban the wearing of uniforms by militia members in February 2005⁹⁷ is evidence that this force still operates in West Timor at some level, and will continue to create unease in Timor-Leste.

Alongside this unease provoked by militias, citizens are taking actions on the border that can provoke difficulties. An Indonesian officer was reportedly injured by gunfire when trying to stop the smuggling of Indonesian kerosene into Timor-Leste.⁹⁸ More recently a mob from West Timor crossed into the Timor-Leste-controlled enclave of Oecusse, threatened police officers, and burned buildings after an incident spurred by the interaction of land use and border demarcation.⁹⁹ While some rumors swirled that militias or Indonesian soldiers provoked this incident, vigilantism could also have driven it.

The broader point is that while 96% of the border may be demarcated between the two countries,¹⁰⁰ unpredictable events on the border can still provoke major rows. A western expert who asked to remain anonymous remarked that "Neither East

Timor nor Indonesia has the capacity or the understanding to keep citizens informed of changes," and that border flare-ups "can easily get out of hand."¹⁰¹ Land use conflicts and reactions to incidents provoked by border smuggling demonstrate two easy pathways to broader conflict, and these could strongly impact the relationship between the two countries.

In this light, whether or not Indonesia and Timor-Leste remain committed to CTF and avoid any pitfalls it creates does not appear likely to smoothen the relationship between the two states. While the removal of an irritant like prosecutions of Indonesian leaders can obscure one regular and serious source of conflict, it does not necessarily follow that this change will necessarily move the bilateral relationship forward. Instead, other major issues will remain, and could seriously undermine bilateral relations. In some important ways, this undercuts the claim that CTF should be supported or permitted to move forward because sustaining Indonesian-Timorese relations is a paramount issue.

February 2005, via BBC Monitoring International Reports.

⁹⁸Antara. "Indonesian Soldier Shot In NTT-East Timor Border Area," 22 April 2005.

⁹⁹ABC Radio Australia, "East Timor Minister Praises Indonesian Cooperation Over Border Incidents," 19 October 2005, via BBC Monitoring International Reports.

¹⁰⁰Japan Economic Newswire. "E. Timor, Indonesia Sign Provisional Pact on Land Border," 8 April 2005.

¹⁰¹Sian Powell. "There's trouble on the border," *The Australian*, 31 October 2005.

The Southeast Asia Airlines Industry: Recent Development, Competition and Policy Issues

Yose Rizal and Titik Anas

INTRODUCTION

THE airline business in Southeast Asia has changed rapidly over the past five years. Deregulation and liberalization of the industry in many ASEAN countries accelerated the growth of the industry. Indonesia's domestic airline market, for example, has been growing at a rate of around 30% per year for a couple of years. Several years ago the market was only served by several big airlines; at the moment around 15 airlines are operating regular flights. Similar pattern can be observed in other countries in Southeast Asia.

This new development has changed the face of airline industry in the region. Competition among air service providers intensified, resulted in substantial structural transformation. A new breed of business model which is known as low cost carrier (LCC) has also emerged and pushed forward the changes.

This paper attempts to assess the recent development of airline industry in Southeast Asia, particularly on the pre-

sence of the new business model and its impact to the industry. It also discusses the characteristics and environment of Southeast Asian market. The following section discusses recent development and impact of the emergence of low-cost carriers. It is followed by a discussion on policy issues regarding airline industry in the region.

CHARACTERISTICS OF SOUTHEAST ASIAN AIRLINE MARKET

A Glance to The Past

Not so long ago, the ASEAN sky was dominated only by a few long-established airline companies. Most of these airlines, known as flag carriers of each country — such as Garuda Indonesia, Singapore Airlines, Malaysian Air System and Thai Airways— are in fact owned or partly owned by their respective governments. Government protection allowed them to dominate their domestic markets. Thai Airways, for example, was virtually the only carrier available for domestic routes in Thailand, as the Thai government restricted other domestic airlines. In

Indonesia, although there were a few other carriers serving domestic and regional routes, they either had business relationships with Garuda or were owned by people close to inner government circles.

These airlines catered to travellers' needs, flying domestic routes, short-haul regional flights and also international travel, and also providing full on-board and ground services, with connectivity and transfer to other carriers, operating in a hub-and-spoke network model, and covering as many demand categories as possible by offering several classes of services. Their dominant position, together with government protection, allowed them to charge high fares on their services, particularly for domestic and regional flights, and yielding very high profits.

This situation came to an end in the late 1990s when economic crisis swept across Asia. Southeast Asian aviation industry was severely affected by the 1997 crisis. The number of passengers traveling international routes into and out of Indonesia, for example, fell by 20%, and domestic routes were even harder hit. It was the same in other countries—international travel from Singapore fell by 5%, while the number of passengers traveling to and from Malaysia did not grow significantly.

Several airlines, their considerable debts denominated in \$US, faced severe financial difficulties. Garuda Indonesia was forced to undergo a restructuring program and was scheduled for privatization. Philippine Airlines was also grounded in 1999 after incurring US\$338 million losses over the previous four years. Although a number

of airlines survived, all were forced to restructure to some extent.

Deregulation and liberalization in several Southeast Asian countries, partly driven by the crisis, have created a new competitive environment in the airline industry. A number of new airlines have emerged, predominantly in the cut-fare sector, including Malaysia's Air Asia, Thailand One To Go and Nok Air, Singapore Tiger Airways and ValueAir and Indonesian Lion Air, Adam Air and AWAir, radically changing the nature of the airline business in Southeast Asia.

Market Environment

Southeast Asian airline market can be divided into two separate markets: international or regional, and domestic. Statistics on visitor-arrival between ASEAN countries in 2003 shows that there are 18 million people travelling, 65% of which came from Singapore, Indonesia, Thailand and Malaysia. The statistics also reveal that a big portion of these travelers choose aircraft as their mode of transportation. For instance, more than 60% of ASEAN visitors to Singapore in 2003 were air travelers. The same pattern has also been observed for other countries in the region. Geographical condition of the region hampers the development of land transport networks to service this market, while sea transportation cannot provide convenient and prompt way of international traveling.

The success story of new low-cost airline companies in Europe and America has been characterized by shifting travelers from other modes of transportation, such as sea and land transportation.

Similar situation does not appear to be the condition for new airlines in Southeast Asia. As most of international travelers in the region depend on air transportation, it is unlikely for them to be able to attract large number of consumers from other transportation modes. Instead, they will have to depend on the existing market, which means competing with the incumbents, or try to increase existing travelers' frequency of travel.

However, the figures also show that the number of international traveler between countries in the region is still small in compare to regional population. The ASEAN market's potential is impressive—49 city pairs with population more than one million, within two hours' flight of

one another (Hooper 2004). Detail look on characteristics of international routes in the region also suggest that most of potential traffics are still underserved by current air service providers. Table 1 provides several features of the market situation. Only around one third of city pairs in the region were served by more than one airline, while more than half only offered fewer than 100,000 seats. The potential market of international air travel market in Southeast Asia is still attractive for newcomers. Nevertheless, the demands depend largely on regional economic growth. International market access issues are also problematical that makes domestic market become crucial to the development of airline industry.

Table 1. Airline Market Situation in Southeast Asia

	Flight Time	Under 2 hours	2 to 5 hours
Number of city-pairs		43	62
Number of city pairs with one airline		14	20
Number of city pairs with two airlines		12	24
Number of city pairs with three airlines		5	9
Number of sectors with fewer than 100,000 seats in 2002		25	39
Number of sectors with 100,000 to 500,000 seats in 2002		15	20
Number of sectors with 500,000 to 1 million seats in 2002		0	1

Source: Adopted from Hooper (2005)

Two countries in the region, Indonesia and the Philippines, are archipelagic countries, meaning that domestic travelers have to rely on unreliable and unpleasant

sea and land transportation to travel between cities. Also, traveling by road or rail between cities in other countries takes much longer than by air. New airlines in

these countries have great potential if they can lure some of the huge numbers of domestic travelers away from land transport before expanding into the more competitive international market. Where they have no significant domestic market, airlines might find it difficult to compete with the incumbent traditional carriers.

Market Access within The Region

As mentioned above, market access for air travel between countries in Southeast Asia are still limited. Unlike airlines in Europe and North America, ASEAN is not a single market. Access to the air travel market varies across the ASEAN member countries. Singapore has traditionally adopted liberal policies both as a reflection of its geography and as part its strategy to establish itself as a regional hub. Thailand has followed this lead, granting more access such as traffic rights and adopting an open sky policy from 2001. Others have implemented more restrictive policies. Malaysia has provided access to its domestic destinations based on reciprocal rights. Indonesia and the Philippines provided limited access and restricted destinations to other countries' airlines. Aviation policies are generally underdeveloped in Cambodia, Laos and Myanmar, but somewhat more advanced in Vietnam. While airlines from other ASEAN countries might operate in this sub-region, the uncertainty of sustainable rights remains high.

Recent cases have shown that new carriers might be more exposed to restrictive regulation than the incumbents. Singaporean authorities refused Indonesia's

AWAir request to begin flights between Jakarta and Singapore. Indonesian authorities have also announced limitation for access of foreign low-cost airlines carrying passengers to four big cities in Indonesia, despite the current presence of two foreign low-cost carriers in the country.

Efforts have been made towards greater access in the region. Cambodia, Laos, Myanmar and Vietnam are members of the proposed CLMV regional air services agreement, which will provide unlimited capacity and traffic rights across member countries. The ASEAN Free Trade Agreement on Services (AFAS) has placed air transport as one of the three priority targets on the roadmap of services-trade liberalization. Other countries' limited access to ASEAN countries' domestic markets will slow the development of new carriers in the region. Consequently, the availability of significant domestic markets will be extremely important for new airlines in the near term.

RECENT DEVELOPMENT OF AIRLINE INDUSTRY IN SOUTHEAST ASIA

The Emergence of Low Cost Carriers

Over the past 15 years, the aviation industry has undergone a revolution with the emergence of a new business strategy. This new carriers differ to traditional carriers by striving to reduce costs substantially and offer low-fare flights while providing only basic services to customers. On the other hand, traditional airlines compensate for high fares by providing full-service flights.

It is widely accepted that the low-cost carrier business model was introduced in the 1970s in Southwest Airlines' service of local routes in Texas. This new airline business model was adopted in Asia, particularly Southeast Asia, following the reform and deregulation of the sector. Now, at least seven carriers in Southeast Asia claim publicly to be low-cost carriers, while some others also offer low-fare tickets with additional services.

Low-cost carriers operate on a point-to-point route basis, as opposed to the hub-and-spoke networks operated by network carriers. Low cost carriers in the region also adopt similar strategies for serving their domestic market. Air Asia of Malaysia started by connecting Kuala Lumpur and other parts of Malaysia, particularly Sabah and Sarawak. Thailand's One-two-go started by serving the huge demand on the Bangkok-Chiang Mai route. The same strategy was also adopted by new airlines in Indonesia, which mostly operate between Jakarta and other big cities.

A distinctive feature of low-cost carriers is their use of secondary airports. Secondary airports tend to have lower fees, can be more convenient for customers, and, more importantly, tend to have less traffic, which in turn increase efficiency and lower cost. While this strategy remains difficult to implement due to limited availability of secondary airport, even in capital cities, low-cost carriers in the region are still looking for ways to exploit it. Lion Air and Wings Air, for example, are trying to get access to Jakarta's old airport, Halim Perdana Kusuma. Thai Air Asia flies to smaller Macao airport, instead of flying to HongKong.

The new low-cost carriers in the region have transformed marketing strategy and distribution channel of airline industry. As loading factors became an important element in operational cost reduction, new carriers need to simplify booking and purchasing procedures. While internet booking with credit card payment is common feature of marketing strategy for LCCs in other region, new airlines in Southeast Asia might find difficulties to implement it. To overcome this problem, most carriers come up with innovative ideas.

In addition to its most common call center which already contributed around 50% of its sales, Lion Air of Indonesia also provides reservations via short message services (SMS), which can be finalized and paid for through ATMs.¹ A more innovative ticket sales system has been implemented by several low-cost carriers in Thailand, notably NokAir and One-Two-Go, which taking advantages of convenience store networks, such as 7-Eleven, to sell tickets. To raise awareness and attract new potential passengers, these airlines also use various marketing strategy, including discounted price and aggressive promotion.

The Impact of Emerging Low Cost Carriers in South East Asia

Following deregulation and reform on airline industry in several Southeast Asian countries, as well as the emergence of low cost carriers, competition has become very

¹Based on interview with several airlines executives in the region. They admitted that travel agents remain important, mostly for business segment.

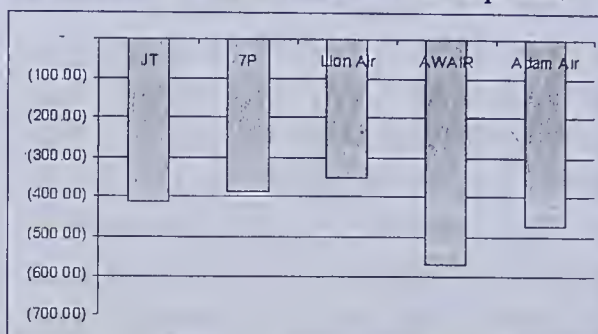
sharp. It further resulted in lower price, increased air travel volume, reduced market share of the network carrier and firm restructuring. It also put competition pressure on other modes of transportation.

Substantial falls in airfares have become common in Southeast Asia in recent times. Airasia – a budget airline from Malaysia was phenomenal for a very cheap airfare in South East Asia. Valuair Ltd, a Singapore budget airline established in May 2004 pushed Cathay Pacific and Singapore Airlines to cut its price by half. Airfare for the Jakarta-Surabaya route in Indonesia, a 1000 kilometre trip, fell to as low as US\$20, compared to as high as US\$90 prior to deregulation.

A huge price differential offered by airlines for regional as well as domestic routes is also common. Figure 1 showed wide price differentials in the domestic route, i.e. Jakarta-Surabaya route.

² Price differential= price of each new comer – price of an incumbent

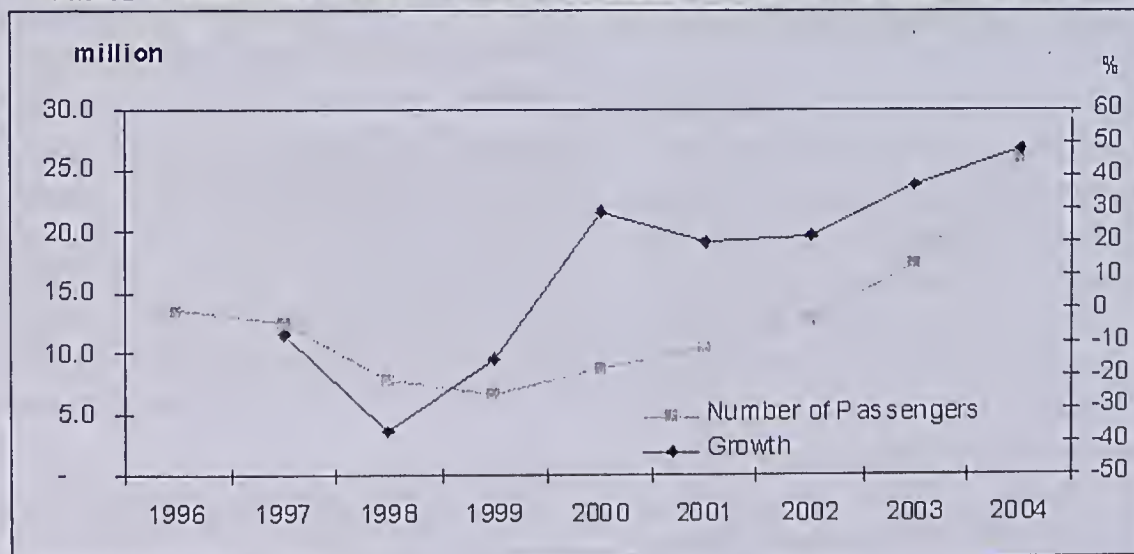
Figure 1. Indonesia: New Entrants Vs. Incumbents, Price Differences (In Rp '000)²



Source: Travel agent's quotation

A substantially reduced price, especially for the case of Indonesia has resulted in the increased travel volume, region-wide and locally. More people travelled by air nowadays, switching from land transport such as bus and train. Figure 2 illustrates the growth of passenger numbers in Indonesia, and the acceleration of this growth in 2004, but further work is required to isolate the effects of low-cost carriers' entry from other economics variables affecting traffic growth.

Figure 2. Indonesia: Number of Air Passengers (Million) and Growth Rate (%)



Source: CEIC

Despite of the increased travel volume regional wide, Southeast Asia's three largest network carriers have experienced years of negative growth. In 2001/2002, Malaysian airlines passenger numbers fell 6 percent, while those for Singapore Airlines and Thai Airways fell by 1.6 percent. In 2002/2003, Thai Airways continued to experience declining demand while Malaysian Airlines and Singapore Airlines managed to have positive growth. In 2003/2004, Malaysian Airlines faced declining demand once again (Table 2). Garuda Indonesia also lost market share to new entrants, its share falling to 32% in 2004 from 46% in 1999.

The new wave of competition made several ASEAN network carriers restructured

their business to regain profitable growth. Some have established low-cost subsidiaries to compete with the new-comers—Thai Airways set up Nok Air, Singapore Airlines set up the joint venture Tiger Airways; and Garuda Indonesia launched Citilink, to serve point-to-point routes. Many, however, questioned whether Garuda Citilink can really be categorized as a low-cost carrier as it remains under the management of Garuda Indonesia. Indeed, recent reports indicate that the new management of Garuda Indonesia has decided to put Citilink under a separate management team, but it remains to be seen whether subsidies from the parent company will be removed.

Table 2. Total Passengers of Selected South East Asian Network Carriers
(y-o-y percentage change)

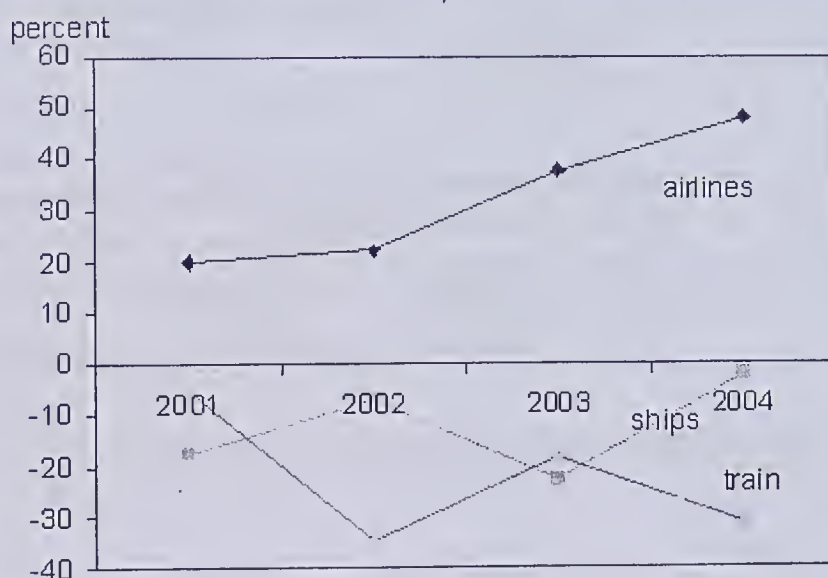
	Malaysian Airlines	Singapore Airlines	Thai Airways
1996/97	7.41	8.73	6.08
1997/98	(1.65)	(0.54)	0.14
1998/99	(9.31)	6.86	7.45
1999/00	12.12	7.87	8.39
2000/01	8.94	8.85	5.19
2001/02	(6.04)	(1.58)	(1.63)
2002/03	3.76	3.80	(6.92)
2003/04	(5.82)	n.a.	14.62

Source: CEIC database

In contrast to other ASEAN network carriers, Malaysian Airlines, a publicly listed company, has no plan to set up its own low-cost carrier. It is more focused on reducing costs, from fleet renewal to outsourcing and subcontracting. It has also adopted some innovative cost-reduction strategies pioneered by the low-cost carriers, such as internet booking, although it is still at a very early stage in this process. In addition, they need to find its market niche so that they can charge the premium for the full service offered.

Recent development of airline industry and the emergence of low cost carriers in Southeast Asian countries have also brought significant impact to other modes of transportation, particularly for domestic travelers. The unpleasant land and sea trips within the countries are slowly being usurped by fast, affordable air travel. In Indonesia, for example, the number of airline passengers has continued to increase tremendously since 2000, while the number of rail and sea passengers has shrunk (Figure 3).

Figure 3. Indonesia, Growth in the Number of Air, Rail & Sea Passengers, 2000-04 (%)



Source: Ministry of Communication

REMAINING ISSUES

The changing face of airline industry in the region has raised several important issues. Some of the issues are related to consumer protection and rights, while others are relevant consequences of the recent development.

Services To Consumers and Their Rights

The emergence of low cost carriers in the region has open up the possibility for consumers to choose cheaper air services, but usually lower quality. There have been some attempts from several governments to set a minimum standard of on board services. But this will result in higher fares

and fewer service choices for consumers. Given that the growth of low-cost carriers is crucial to stimulate economic growth, setting a minimum service standard would be counterproductive.

There is also one frequent problem that recently has become more significant; it is called *denied boarding* practice. Most airlines systematically overbooked, allowing more confirmed bookings than there are available seats. This practice might lead to some passengers with confirmed seats are denied boarding because the plane is full. Although it is a common practice, International Air Travel Association (IATA) recommends that passengers should get compensation and may be identified on voluntary basis.

Unfortunately this recommendation is rarely implemented in practice. Although passengers can get full refund for denied boarding, airlines rarely follow the recommended denied boarding procedures, and are not all that considerate of consumers. Customers are often informed that they cannot board only a few minutes before departure. Government might need to set up regulation dealing with such practice.

Along with fierce price competition, it is very common now to see airline advertisements offering unbelievably low fares, usually accompanied by extremely small print detailing the stringent conditions. Such ads can be misleading. In Indonesia, this type of gimmick attracted the attention of the Competition Commission (KPPU), which was concerned that it could be unfair competition and consequently demanded clarification from several airline

companies. In Thailand, the Consumer Protection Board recently considered fining three low-cost carriers for running misleading advertisements on their airfare (*Business Day*, 22 December 2004).

Intense competition in the industry has also raised the possibility of an airline company to stop its operation and to fail to deliver service. The question is: If an airline fails to deliver service due to operational or business failure, who will cover the loss? The formal clause of agreement between airlines and customers, supported by regulation, is more biased towards airlines. Anecdotal evidence from the recent case of three airline companies in Indonesia shows that the losses were not covered at all³. Although, such protection is not necessarily binding, offering such protection would distinguish particular airlines from others. The responsibility for such cases needs to be clearly stated.

Recent series of serious and small air transportation accidents have raised the issue of aviation safety, particularly among low-cost carriers.⁴ Uninformed members of the public may feel that airlines, attempting to cut costs wherever possible, might also reduce expenditure on maintenance and other related aspects of flight safety. There

³ Licenses of three Indonesian airlines were withdrawn recently. Passengers of scheduled flights from those airlines failed to fly and did not get any compensation (*Kompas*, 23 January 2006)

⁴ A Lion Air plane had a serious accident as it landed during a heavy downpour in November 2004, killing 26 people. During the period January-May 2005, there were 10 smaller incidents involving aircrafts of this airline.

are calls for tighter regulations, which would impose additional costs on the airlines. The real problems, however, lie more in the implementation of safety regulations, as most ASEAN countries do not have sufficient capacity to conduct evaluation and control of airlines operating in the region. One of the oft-proposed solutions to the safety concerns is the establishment of independent regulatory bodies. The implementation of this proposal can become a talking point of regional cooperation between ASEAN countries.

These issues regarding services and consumers' rights are just among several problems currently challenge the airline industry in the region. Some other problems have also need to be addressed as consequences of current development.

State Subsidies and Competition

As mentioned previously, most long standing airlines in the region is state-owned companies and receive subsidy from the governments. It undermines the competitive process and inhibits entry of new suppliers. Also, there may be competition concerns if the incumbents respond by setting up their own low-cost carriers and there is cross-subsidy between the traditional airline and the low-cost airline

Because Philippines Airlines received subsidies from the government, it never needed to operate efficiently, and came close to collapse in the late 1990s as a consequence of risky investment decisions. State-owned Garuda Airlines nearly went bankrupt in 1998, during the Asian Crisis, because of the massive debt it had accumulated through years of inefficiency and

internal corruption. In 2001, the company underwent debt restructuring, with creditors agreeing to extend the payment period by five years until 2010. Garuda issued shares valued at Rp1.3 trillion, a considerable proportion of which is in mandatory convertible bonds (MCB), held by state-owned Bank Mandiri and state-owned airport operators PT Angkasa Pura I and PT Angkasa Pura II.

While Philippines Airlines did not establish a low-cost subsidiary in response to the new entrants, Garuda did and left it under the same management. Cross-subsidies between Garuda and its subsidiary are therefore inevitable. To ensure a level playing field, Garuda must place the subsidiary under separate management to allow transparent financial reporting and prevent cross-subsidisation.

At the same time, there are competition concerns related to the incumbents' reaction in terms of pricing. In some cases, they have gone further, pressuring other transportation sectors to seek a minimum fare regulation to try to limit the substitution away from their services. Indonesian Transport Ministry was once considering setting floor prices at 30% of the ceiling fares⁵. The decree on minimum fares was then modified in order to set reference price of airline ticket.

International Issues

As discussed above, market access for air transport services in the ASEAN

⁵The *Jakarta Post* (20 December 2004) quoted a Garuda Indonesia spokesman claiming that floor fares were needed to ensure healthy competition.

member countries remains restricted. Market access can be seen as the right of an airline to serve a given route between its own country and another country, and also the right to carry passengers between those countries. These rights are known as the fourth and the fifth freedom of the air. Access can be further provided to allow foreign airlines to operate domestic services, known as *cabotage*. ASEAN member countries usually rely on bilateral agreements between individual countries to give access for international routes, while access for *cabotage* remains closed for most countries.

Some attempts have been made to establish multilateral agreements for air services in the region. The ASEAN Free Trade Agreement on Services (AFAS) has placed air transport as one of the three priority targets on the roadmap of services-trade liberalization. The CLMV countries have also proposed an agreement that would provide unlimited capacity and traffic rights to countries within this sub-region. However, the journey to a more liberalized sky in ASEAN will be uncertain and turbulent. The restrictive industry environment will hamper further development of air services in the region, particularly for low-cost carriers.

This condition forces the airlines in the region to find ways to circumvent market access issues—the use of secondary airports near borders is one example. Air Asia and Thai Air Asia, for example, have used the secondary airport of Johor Baru and Udon Thani to get access to Singapore and Laos. One-Two Go of Thailand also

flies from Bangkok to Macau to avoid difficulties in obtaining access to Hong Kong.

Another way of increasing access, particularly to domestic markets, is to set up a subsidiary with a partner from the target country. Low-cost carriers who want to operate across borders may be limited by bilateral agreements. It may be possible to bypass this problem by setting up a joint-venture airline in the designated market. Air Asia, for example, has set up subsidiaries in Thailand and has bought out inactive airlines in Indonesia. In the future, other ASEAN airlines may also follow this strategy, but its success will depend on ownership and investment regulations in each country.

Infrastructure Issues

As noted earlier, the rapid growth of low-cost airlines in Southeast Asian countries has brought significant impact on the number of flights and passengers travelling across the region and also within countries. This growth has created some tension in air transport infrastructure, particularly airport facilities. Unlike similar airlines in Europe and North America, which usually operate at alternative but more affordable airports, most new and low fare carriers in the region serve consumers from the same airports as network carriers due to the lack of secondary airports.

The new low-cost carriers' operations, coupled with incumbent carriers' response, can produce significant additional demands on airports' runways and airspace. The number of flight departures and

arrivals in Changi airport grew more than 20% during 2004. Congestion and flight delays have been observed in many major airports in the region, forcing many airports to operate close to full capacity. The expansion of airport operations also brings some environmental impacts. Airport operators must balance the demands of serving air transport services to serve their regions, while at the same time reducing the negative environmental impact on the local community as much as possible.

The development of new major international airports in several countries might relieve this tension. The Thai authorities have announced the opening of a new airport near Bangkok in 2006, to handle around 45 million passengers per year, with the current airport being devoted to domestic and low-cost carriers' regional flights. Singapore is planning to build a new terminal designed specifically for low-cost carriers. Some Indonesian airlines have proposed the use of Halim Perdanakusuma airport, which is currently underutilized, but the plan is unlikely to be carried out in the near future. The long forgotten Terminal A of Soekarno Hatta airport is now being used to cope with pressures imposed by the impressive recent increase in air travel demand.

As the demand and nature of low-cost carriers' operations are different to those of network carriers, airport specialisation in servicing different types of airlines can ease congestion problem and also increase the industry's efficiency. However, the increasing need for infrastructure is not only limited to major cities. New carriers'

opening of many new domestic and regional destinations has increased traffic levels in smaller cities, so in the longer term infrastructure and service improvements will be necessary even if capacity is currently not too stretched. Governments, however, will probably not be able to afford all the improvements needed; private investment will be crucial. Where the government can help is in relaxing investment policy to support the demand for airport and other infrastructures.

CONCLUSION

Deregulation of the airline industry in Southeast Asia resulted in accelerated growth of the industry. The emergence of low cost carriers, allowed by deregulation and liberalization in the industry, pushed forward the acceleration. In the region which used to be dominated by flag-carriers, most of which were state-owned, now witnesses the more active role of private-owned carriers. More people than ever are flying now due reasonably cheap fares. Innovations became a necessary condition for the airlines business in this region. Internet booking, sms-booking plus ATM payment settlement and ticket sales available at the convenience store are among others. The emergence of private-owned carriers, in general and the low cost carriers in particular, has pushed the network carriers to adjust extensively to survive and remain profitable. Many of the network carriers have had to restructure, including opening up low-cost subsidiary carriers to compete with the new entrants.

The rapid growth of the industry requires an improvement in consumer

protection regulation. As denied boarding becoming significantly increased nowadays, compensation should be clearly mentioned in the consumer-airlines agreement. Promotional price, which usually extremely low should be clearly stated the conditions so that consumers will be well informed of what they are entitled to. As the failure to deliver service also increases, i.e. exit of inefficient airlines, consumer rights for compensation should be clearly stated in the consumer-airlines agreement.

The accelerated growth of the industry also needs the expansion of airport facilities. The increase in air traffics so far, however, was not accompanied by expansion of airport facilities yet which has resulted in congestion and flight delays. Singapore and Thailand seem to be the fastest in responding to this need. Meanwhile, Indonesia continues to optimize the existing facilities.

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